

EMERGENCY BILL

By: The President (Department of Legislative Reference)

Introduced and read first time: January 27, 1997

Assigned to: Rules

Committee Report: Favorable

Senate action: Adopted

Read second time: February 14, 1997

CHAPTER _____

1 AN ACT concerning

2 Supplemental Corrective Bill - State Personnel and Pensions Article

3 FOR the purpose of correcting certain errors and omissions in the State Personnel and
4 Pensions Article as affected by implementation of Chapters 347 and 349 of the Acts
5 of 1996; repealing an obsolete provision and subtitle; validating certain corrections
6 made by the publisher of the Annotated Code; ratifying certain provisions of the
7 Code affected by implementation of Chapters 347 and 349 of the Acts of 1996; and
8 making this Act an emergency measure.

9 BY repealing and reenacting, without amendments,
10 Chapter 347 of the Acts of the General Assembly of 1996
11 Section 15

12 BY repealing and reenacting, without amendments,
13 Chapter 349 of the Acts of the General Assembly of 1996
14 Section 13

15 BY repealing and reenacting, with amendments,
16 Article - State Personnel and Pensions
17 Section 2-202(b), 2-306(e)(2), 4-302(a)(1)(vi), 7-206(a)(1), 7-404(a), 7-502(a),
18 9-205(a)(1), 11-112(a), 11-302(b), 12-201(a)(1), and 12-205(b)(1)(iii)
19 Annotated Code of Maryland
20 (1994 Volume and 1996 Supplement)

21 BY repealing
22 Article - State Personnel and Pensions
23 Section 3-201 and the subtitle "Subtitle 2. Political Activities"

2

1 Annotated Code of Maryland
2 (1994 Volume and 1996 Supplement)

3 BY repealing and reenacting, without amendments,
4 Article - State Personnel and Pensions
5 Section 1-101(d), 2-503(d)(3)(i), 6-303(1), 7-208(a)(1)(iv), 12-303, and 13-204(3)
6 Annotated Code of Maryland
7 (1994 Volume and 1996 Supplement)

8 BY repealing and reenacting, with amendments,
9 Article 88B - Department of State Police
10 Section 37(a)
11 Annotated Code of Maryland
12 (1995 Replacement Volume and 1996 Supplement)

13 BY repealing and reenacting, with amendments,
14 Article - Education
15 Section 6-303(e)(3) and 8-313(g)
16 Annotated Code of Maryland
17 (1997 Replacement Volume)

18 BY repealing and reenacting, with amendments,
19 Article - State Finance and Procurement
20 Section 3-301(c)(1)
21 Annotated Code of Maryland
22 (1995 Replacement Volume and 1996 Supplement)

23 BY repealing and reenacting, with amendments,
24 Article - State Personnel and Pensions
25 Section 2-501, 13-401, 13-403(b)(1), 13-404(a), (b)(3), and (c)(2)(i), 13-405(a),
26 21-104(a), 21-305.4(b)(3) and (c)(2)(i), and 35-202(a)(2)(i)
27 Annotated Code of Maryland
28 (1994 Volume and 1996 Supplement)

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

31 **Chapter 347 of the Acts of 1996**

32 SECTION 15. AND BE IT FURTHER ENACTED, That subject to the approval of
33 the Director of the Department of Legislative Reference, the publishers of the Annotated
34 Code of Maryland shall correct any cross-references that are rendered incorrect by this
35 Act.

3

1 **Chapter 349 of the Acts of 1996**

2 SECTION 13. AND BE IT FURTHER ENACTED, That:

3 (a) Pursuant to the plan of reorganization that is proposed by this Act, the
4 publishers of the Annotated Code of Maryland, subject to the approval of the Maryland
5 Department of Legislative Reference, shall propose the correction of any agency names
6 and titles throughout the Annotated Code that are rendered incorrect by this Act.

7 (b) To the extent necessitated by this Act, the Department of Legislative
8 Reference, in conjunction with the publishers of the Annotated Code, shall revise the
9 Annotated Code of Maryland in order to conform the Code to the abolishment of the
10 Department of Personnel and its administrative reorganization and merger into the
11 Department of Budget and Management, and the transfer of the telecommunications
12 components from the Department of General Services to the Department of Budget and
13 Management as required under this Act, and this statutory revision shall be ratified by
14 passage of the Annual Corrective Bill of 1997.

15 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
16 read as follows:

17 **Article - State Personnel and Pensions**

18 1-101.

19 (d) "Contractual employee" means an individual described in § 13-101 of this
20 article.

21 DRAFTER'S NOTE:

22 %Error: Extraneous subparagraph designation in § 1-101(d) of the State
23 Personnel and Pensions Article.
24 Occurred: Ch. 347, Acts of 1996. Correction by the Michie Company in the
25 1996 Supplement of the State Personnel and Pensions Article is validated by
26 this Act.

27 2-202.

28 (b) As expressly authorized by law, a unit in the Executive Branch of State
29 government may establish a personnel system that operates [independently]
30 INDEPENDENT of the State Personnel Management System.

31 DRAFTER'S NOTE:

32 %Error: Incorrect word usage in § 2-202(b) of the State Personnel and
33 Pensions Article.
34 Occurred: Ch. 347, Acts of 1996.

35 2-306.

36 (e) An employee who consumes an alcoholic beverage in the workplace:

4

1 (2) may not drive a State vehicle or operate State construction equipment
2 during the employee's normal [work day] WORKDAY.

3 DRAFTER'S NOTE:

4 %Error: Misspelling in § 2-306(e)(2) of the State Personnel and Pensions
5 Article.

6 Occurred: Ch. 347, Acts of 1996.

7 2-503.

8 (d) (3) The regulations adopted by the Secretary under this subsection shall
9 provide that an employee organization specified in paragraph (1)(ii) of this subsection:

10 (i) may not enroll or participate in the Program unless the
11 organization has notified the Secretary, in writing, on or before July 1, 1994 of the
12 organization's intent to enroll and participate in the Program during calendar year 1994;
13 and

14 DRAFTER'S NOTE:

15 %Error: Omitted obsolete language in § 2-503(d)(3)(i) of the State Personnel
16 and Pensions Article.

17 Occurred: Ch. 347, Acts of 1996. Correction by the Michie Company in the
18 1996 Supplement of the State Personnel and Pensions Article is validated by
19 this Act.

20 [Subtitle 2. Political Activities.]

21 [3-201.

22 (a) This subtitle applies to all employees, including classified, unclassified,
23 full-time, part-time, permanent, temporary, and contractual employees, of all units in the
24 executive, judicial, and legislative branches of State government, including any unit with
25 an independent personnel system.

26 (b) The rulemaking and other authority of the Secretary with respect to this
27 subtitle extends only to those employees who are in the State Personnel Management
28 System.]

29 DRAFTER'S NOTE:

30 %Error: Inadvertent omission of repeal of subtitle and § 3-201 of the State
31 Personnel and Pensions Article.

32 Occurred: Ch. 347, Acts of 1996.

33 4-302.

34 (a) The Secretary shall submit to the Governor and, subject to § 2-1312 of the
35 State Government Article, to the General Assembly an annual report for each fiscal year
36 that:

5

1 (1) provides information about the various personnel areas under the
2 Secretary's jurisdiction, including:

3 (vi) a summary of the equal employment opportunity report required
4 under § 5-204 of this article, including hiring, firing, promotions, terminations, and
5 rejections on probation, by race, sex, and [age.] AGE;

6 DRAFTER'S NOTE:

7 %Error: Incorrect punctuation in § 4-302(a)(1)(vi) of the State Personnel and
8 Pensions Article.
9 Occurred: Ch. 347, Acts of 1996.

10 6-303.

11 All positions in the Judicial Branch of State government are excluded from the
12 State Personnel Management System except:

13 (1) the positions in the District Court of Maryland that are listed in §
14 6-401(b) of this title; or

15 DRAFTER'S NOTE:

16 %Error: Erroneous internal reference in § 6-303(1) of the State Personnel
17 and Pensions Article.
18 Occurred: Ch. 347, Acts of 1996. Correction by the Michie Company in the
19 1996 Supplement of the State Personnel and Pensions Article is validated by
20 this Act.

21 7-206.

22 (a) (1) [(i)] An appointing authority may use any appropriate selection process
23 to rate qualified applicants.

24 [(ii)] (2) A unit must be able to establish the job relatedness,
25 reliability, and validity of the selection tests that it uses.

26 DRAFTER'S NOTE:

27 %Error: Stylistic error in § 7-206(a)(1) of the State Personnel and Pensions
28 Article.
29 Occurred: Ch. 347, Acts of 1996.

30 7-208.

31 (a) The appointing authority shall:

32 (1) based on appropriate standards, place the candidates within the
33 following categories:

34 (iv) unsatisfactory;

35 DRAFTER'S NOTE:

6
1 Error: Extraneous conjunction in § 7-208(a)(1)(iv) of the State Personnel
2 and Pensions Article.
3 Occurred: Ch. 347, Acts of 1996. Correction by the Michie Company in the
4 1996 Supplement of the State Personnel and Pensions Article is validated by
5 this Act.

6 7-404.

7 (a) Each appointing authority and, where applicable, supervisor has the
8 responsibility of properly explaining the duties and responsibilities of an employee's
9 position to the employee, providing the employee with a written position description and
10 otherwise [orientating] ORIENTING the employee to the operations of the employee's
11 unit.

12 DRAFTER'S NOTE:

13 %Error: Incorrect word usage in § 7-404(a) of the State Personnel and
14 Pensions Article.
15 Occurred: Ch. 347, Acts of 1996.

16 7-502.

17 (a) An employee subject to this subtitle shall receive the following written
18 performance appraisals at [6 month] 6-MONTH intervals based on the employee's
19 entry-on-duty date:

20 (1) a mid-year performance appraisal; and

21 (2) an end-of-year performance appraisal with an overall performance
22 rating.

23 DRAFTER'S NOTE:

24 %Error: Omitted hyphen in § 7-502(a) of the State Personnel and Pensions
25 Article.
26 Occurred: Ch. 347, Acts of 1996.

27 9-205.

28 (a) (1) Except as otherwise provided in paragraph (2) of this [section]
29 SUBSECTION or in any other law, an employee, who because of the nature of the
30 employee's duties, is required to work on any part of an employee holiday shall receive
31 compensatory time for that work.

32 DRAFTER'S NOTE:

33 %Error: Erroneous internal reference in § 9-205(a)(1) of the State Personnel
34 and Pensions Article.
35 Occurred: Ch. 347, Acts of 1996.

7

1 11-112.

2 (a) If the principal unit has established a peer review panel for disciplinary
3 actions in accordance with regulations adopted by the Secretary, the employee[,] and the
4 principal unit may agree in writing to submit the appeal to the peer review panel, instead
5 of using the appeal procedures in §§ 11-109 and 11-110[,] of this subtitle.

6 DRAFTER'S NOTE:

7 %Error: Extraneous commas in § 11-112(a) of the State Personnel and
8 Pensions Article.
9 Occurred: Ch. 347, Acts of 1996.

10 11-302.

11 (b) An employee may not appeal a separation from employment under this
12 [subsection] SECTION.

13 DRAFTER'S NOTE:

14 %Error: Erroneous internal reference in § 11-302(b) of the State Personnel
15 and Pensions Article.
16 Occurred: Ch. 347, Acts of 1996.

17 12-201.

18 (a) (1) Except as provided in paragraph (2) of this [section] SUBSECTION, the
19 three steps available to a grievant in the grievance procedure are:

20 (i) Step One: the initiation of a grievance procedure;

21 (ii) Step Two: an appeal to the head of the principal unit; and

22 (iii) Step Three: an appeal to the Secretary.

23 DRAFTER'S NOTE:

24 %Error: Incorrect internal reference in § 12-201(a)(1) of the State Personnel
25 and Pensions Article.
26 Occurred: Ch. 347, Acts of 1996.

27 12-205.

28 (b) (1) Within 30 days after an appeal is received, the Secretary or designee
29 shall:

30 (iii) take the action described in paragraph (2) of this [section]
31 SUBSECTION and give the parties written notice of that action.

32 DRAFTER'S NOTE:

33 %Error: Incorrect internal reference in § 12-205(b)(1)(iii) of the State
34 Personnel and Pensions Article.

8

1 Occurred: Ch. 347, Acts of 1996.

2 12-303.

3 (a) After a review, the panel shall issue a written decision to the parties and may
4 grant any appropriate remedy under § 12-402(a) of this title.

5 (b) The decision of the peer review panel is the final administrative decision.

6 DRAFTER'S NOTE:

7 %Error: Stylistic error in § 12-303 of the State Personnel and Pensions
8 Article.

9 Occurred: Ch. 347, Acts of 1996. Correction by the Michie Company in the
10 1996 Supplement of the State Personnel and Pensions Article is validated by
11 this Act.

12 13-204.

13 Except as authorized under § 13-303 of this title, the Secretary may not continue
14 certification for any contractual employee if the Secretary determines that the services
15 performed under the contract:

16 (3) regularly are performed on a basis that is at least equal to 50% of the
17 work responsibility of a full-time permanent employee.

18 DRAFTER'S NOTE:

19 %Error: Omitted percent sign in § 13-204(3) of the State Personnel and
20 Pensions Article.

21 Occurred: Ch. 347, Acts of 1996. Correction by the Michie Company in the
22 1996 Supplement of the State Personnel and Pensions Article is validated by
23 this Act.

24 21-305.4.

25 (b) (3) The annual credit of a participating governmental unit shall be the
26 amount that is sufficient to amortize over a [25 year] 25-YEAR term commencing on July
27 1, 1995, the surplus allocated to a participating governmental unit as of June 30, 1995, by
28 means of an annual credit that increases each year based on the actuarial assumptions
29 adopted by the Board of Trustees on the recommendation of the actuary.

30 (c) (2) (i) Except as provided in subparagraph (ii) of this paragraph, the
31 annual deficit payment of a participating governmental unit shall be the payment that is
32 sufficient to liquidate over a [25 year] 25-YEAR term beginning as of July 1, 1995, the
33 deficit allocated to the participating governmental unit by means of annual payments that
34 increase each year based on the actuarial assumptions adopted by the Board of Trustees
35 on the recommendation of the actuary.

36 DRAFTER'S NOTE:

37 %Error: Omitted hyphens in § 21-305.4(b)(3) and (c)(2)(i) of the State
38 Personnel and Pensions Article.

9

1 Occurred: Ch. 661, Acts of 1996.

2 SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland
3 read as follows:

4 **Article 88B - Department of State Police**

5 37.

6 (a) There is hereby created a board of trustees of the retirement and pension
7 system of the State Police, which shall be part of the Department of [Personnel]
8 BUDGET AND MANAGEMENT. Said board shall consist of [seven] SIX trustees, as
9 follows: the State Secretary of Budget and [Fiscal Planning] MANAGEMENT, [the State
10 Secretary of Personnel,] the State Comptroller, the State Treasurer, the Secretary of the
11 State Police and two members of the Department of State Police to be appointed by the
12 Board of Public Works. Said board shall be organized immediately after three of such
13 trustees have qualified and taken the oath of office. The Secretary of [Personnel]
14 BUDGET AND MANAGEMENT shall be responsible for such administrative functions as
15 had previously been performed by the Director of retirement systems to carry out the
16 duties and business of the board of trustees; however, the Secretary of [Personnel]
17 BUDGET AND MANAGEMENT is authorized to delegate to the [assistant secretary of
18 personnel for retirement systems] EXECUTIVE DIRECTOR OF THE STATE RETIREMENT
19 AGENCY such of these administrative functions as the Secretary deems appropriate.

20 **Article - Education**

21 6-303.

22 (e) (3) [(i) The Secretary of Personnel shall furnish a copy of the Department
23 of Personnel's recommended pay plan to the Secretary of Budget and Fiscal Planning not
24 later than the October 1 preceding the beginning of the fiscal year for which adjustments
25 to the pay plan are to be made.

26 [(ii) The Secretary of Budget and [Fiscal Planning] MANAGEMENT
27 shall incorporate these adjustments into the budget recommendations for the Governor's
28 review and approval for inclusion in the annual budget request.

29 8-313.

30 (g) [(1) The Secretary of Personnel shall furnish a copy of the Department of
31 Personnel's recommended pay plan to the Secretary of Budget and Fiscal Planning not
32 later than the October 1 preceding the beginning of the fiscal year for which adjustments
33 to the pay plan are to be made.

34 [(2) The Secretary of Budget and [Fiscal Planning] MANAGEMENT shall
35 incorporate these adjustments into the budget recommendations for the Governor's
36 review and approval for inclusion in the annual budget request.

10

1 **Article - State Finance and Procurement**

2 3-301.

3 (c) (1) The Secretary of Budget and [Fiscal Planning] MANAGEMENT [and
4 the Secretary of Personnel] may [jointly] establish a performance incentive program to
5 provide pay incentives for employees of the Central Collection Unit.

6 **Article - State Personnel and Pensions**

7 2-501.

8 (a) In this subtitle the following terms have the meanings indicated.

9 (b) "Program" means the State Employee and Retiree Health and Welfare
10 Benefits Program.

11 (c) "Satellite organization" means any organization or entity whose employees are
12 eligible to participate in the State Employee and Retiree Health and Welfare Benefits
13 Program as a separate account.

14 [(d) "Secretary" means the Secretary of Budget and Fiscal Planning.]

15 13-401.

16 (a) In this subtitle the following words have the meanings indicated.

17 (b) ["Departments" means the Department of Budget and Fiscal Planning and
18 the Department of Personnel.

19 (c) "Service contract" means a procurement contract for services that:

20 (1) will be provided to a unit in the Executive Branch of State government;

21 (2) will be performed within a State-operated facility; and

22 (3) in the estimation of the procurement officer, will exceed an annual cost
23 of \$100,000.

24 [(d)] (C) "Services" has the meaning stated in § 11-101 of the State Finance and
25 Procurement Article.

26 [(e)] (D) "Unit" has the meaning stated in § 11-101 of the State Finance and
27 Procurement Article.

28 13-403.

29 (b) Except as provided in subsection (c) of this section, the Board of Public Works
30 may approve a service contract for a unit only if the Board receives a certification from
31 [each of the departments] THE DEPARTMENT that:

32 (1) the service contract is exempt under § 13-404(b) of this subtitle; or

33 13-404.

34 (a) The [departments] DEPARTMENT may certify a service contract to the Board
35 of Public Works as provided in this section.

11

1 (b) The [departments] DEPARTMENT may certify a service contract as being
2 exempt from the preference stated in § 13-402 of this subtitle if:

3 (3) the nature of the services meets the standards set by the Department [of
4 Personnel] for emergency appointments;

5 (c) The [departments] DEPARTMENT may certify a service contract that is not
6 exempt under subsection (b) of this section only if:

7 (2) the [departments find] DEPARTMENT FINDS that:

8 (i) the potential economic advantage of entering into the service
9 contract is not outweighed by the preference stated in § 13-402 of this subtitle;

10 13-405.

11 (a) A unit that seeks to enter into a service contract that is not exempt under §
12 13-403(c) or § 13-404(b) of this subtitle shall submit to the [departments]
13 DEPARTMENT the information required by this section.

14 21-104.

15 (a) The Board of Trustees consists of the following [15] 14 trustees:

16 (1) the Secretary of Budget and [Fiscal Planning] MANAGEMENT, ex
17 officio;

18 (2) [the Secretary of Personnel, ex officio;

19 (3)] the State Comptroller, ex officio;

20 [(4)] (3) the State Superintendent of Schools, ex officio;

21 [(5)] (4) the State Treasurer, ex officio, who may appoint a deputy treasurer
22 as designee;

23 [(6)] (5) the Secretary of the State Police, ex officio;

24 [(7)] (6) two trustees who are members or retirees of the Correctional
25 Officers' Retirement System, the Employees' Pension System, the Employees'
26 Retirement System, the Judges' Retirement System, the Legislative Pension Plan, the
27 Local Fire and Police System, or the Law Enforcement Officers' Pension Plan, only one
28 of whom may be a retiree of any of those State systems at the time of election under
29 subsection (b) of this section and neither of whom may be an employee of the State
30 Retirement Agency;

31 [(8)] (7) two trustees who are members or retirees of the Teachers' Pension
32 System or the Teachers' Retirement System, only one of whom may be a retiree of either
33 State system at the time of election under subsection (b) of this section;

34 [(9)] (8) two trustees who are members or retirees of the State Police
35 Retirement System, of whom one is a retiree of the State Police Retirement System at the
36 time of election under subsection (b) of this section;

12

1 [(10)] (9) one trustee who represents the interests of participating
2 governmental units in the Employees' Pension System and the Employees' Retirement
3 System; and

4 [(11)] (10) two trustees who:

5 (i) represent the interests of the public;

6 (ii) are not members of any of the several systems; and

7 (iii) are knowledgeable in the administration and operation of pension
8 systems and trust funds.

9 35-202.

10 (a) (2) Of the nine members:

11 (i) three shall be from any of the following units:

12 1. [the Department of Personnel;

13 2.] the Department of Budget and [Fiscal Planning]

14 MANAGEMENT;

15 [3.] 2. the Department of Education;

16 [4.] 3. the Office of the State Comptroller;

17 [5.] 4. the Office of the State Treasurer;

18 [6.] 5. the State Retirement Agency; or

19 [7.] 6. the Maryland Higher Education Commission;

20 DRAFTER'S NOTE:

21 %Pursuant to Section 15, Chapter 347, Acts of 1996 and Section 13, Chapter
22 349, Acts of 1996 the amendments to the Annotated Code contained in
23 Section 3 of this Act ratify the corrections made by the Michie Company to the
24 1996 Supplements of the Education Article, State Finance and Procurement
25 Article, State Personnel and Pensions Article, and Article 88B contained in
26 Volume 5 of the Code.

27 SECTION 4. AND BE IT FURTHER ENACTED, That the Annotated Code has
28 been corrected to reflect the changes necessitated by Chapters 347 and 349 of the Acts of
29 1996. Validation of these changes and implementation of Section 15 of Chapter 347 and
30 Section 13 of Chapter 349 of the Acts of 1996 are ratified by passage of this Act.

31 SECTION 5. AND BE IT FURTHER ENACTED, That this Act is an emergency
32 measure, is necessary for the immediate preservation of the public health and safety, has
33 been passed by a yea and nay vote supported by three-fifths of all the members elected to
34 each of the two Houses of the General Assembly, and shall take effect from the date it is
35 enacted.

