

SENATE BILL 171

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1999 Regular Session
9lr0832

By: **Senator Bromwell**
Introduced and read first time: January 29, 1999
Assigned to: Finance

Committee Report: Favorable with amendments
Senate action: Adopted
Read second time: March 29, 1999

CHAPTER _____

1 AN ACT concerning

2 **Public Service Commission - Personnel and Procurement**

3 FOR the purpose of authorizing the Public Service Commission to alter the salary
4 plan and classes of Commission personnel, subject to certain review; providing
5 that certain Commission personnel ~~hired after a certain date~~ are in the
6 executive service, management service, or are special appointments in the State
7 Personnel Management System; ~~providing for the continuation of certain~~
8 ~~professional service positions subject to certain contingencies; exempting the~~
9 ~~Commission from certain procurement provisions~~; requiring a certain annual
10 report by a certain date; providing for the application of this Act; and generally
11 relating to the Public Service Commission; ~~personnel, and procurement.~~

12 BY repealing and reenacting, with amendments,
13 Article - Public Utility Companies
14 Section 2-108(d)
15 Annotated Code of Maryland
16 (1998 Volume)

17 BY adding to
18 Article - Public Utility Companies
19 Section 2-108(e) through (g)
20 Annotated Code of Maryland
21 (1998 Volume)

22 ~~BY repealing and reenacting, with amendments,~~
23 ~~Article - State Finance and Procurement~~

1 ~~Section 11-203(a)(1)(xv) and (xvi)~~
2 ~~Annotated Code of Maryland~~
3 ~~(1995 Replacement Volume and 1998 Supplement)~~

4 ~~BY adding to~~
5 ~~Article State Finance and Procurement~~
6 ~~Section 11-203(a)(1)(xvii)~~
7 ~~Annotated Code of Maryland~~
8 ~~(1995 Replacement Volume and 1998 Supplement)~~

9 ~~BY repealing and reenacting, without amendments,~~
10 ~~Article State Finance and Procurement~~
11 ~~Section 11-203(b)~~
12 ~~Annotated Code of Maryland~~
13 ~~(1995 Replacement Volume and 1998 Supplement)~~

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

16 **Article - Public Utility Companies**

17 2-108.

18 (d) (1) The State budget shall provide sufficient money for the Commission
19 to hire, develop, and organize a staff to perform the functions of the Commission,
20 including analyzing data submitted to the Commission and participating in
21 proceedings as provided in § 3-104 of this article.

22 (2) As the Commission considers necessary, the Commission shall hire
23 experts including economists, cost of capital experts, rate design experts, accountants,
24 engineers, transportation specialists, and lawyers.

25 (3) The Commission may retain on a case by case basis additional
26 experts as required for a particular matter.

27 (4) The lawyers who represent the Commission staff in proceedings
28 before the Commission shall be appointed by the Commission and shall be organized
29 and operate independently of the office of General Counsel.

30 (5) (i) As required, the Commission shall hire hearing examiners.

31 (ii) Hearing examiners are a separate organizational unit and shall
32 report directly to the Commission.

33 (6) The Commission shall hire personal staff members for each
34 commissioner as required to provide advice, draft proposed orders and rulings, and
35 perform other personal staff functions.

1 (7) Subject to § 3-104 of this article, the Commission may delegate to a
 2 commissioner or personnel the authority to perform an administrative function
 3 necessary to carry out a duty of the Commission.

4 (8) (i) Except as provided in ~~{paragraph (ii)}~~ ~~PARAGRAPHS (II) AND~~
 5 ~~(III)~~ of this item or otherwise by law, all personnel of the Commission are subject to
 6 the provisions of the State Personnel and Pensions Article.

7 (ii) The following are in the executive service, management service,
 8 or are special appointments in the State Personnel Management System:

- 9 1. each commissioner of the Commission;
- 10 2. the Executive Director;
- 11 3. the General Counsel and each assistant general counsel;
- 12 4. the People's Counsel;
- 13 5. the commissioners' personal staff members; [and]
- 14 6. each license hearing officer; AND
- 15 7. ALL COMMISSION PERSONNEL HIRED TO POSITIONS IN
 16 THE PROFESSIONAL SERVICE AFTER JUNE 30, 1999 IN POSITIONS IN:

17 A. THE MANAGEMENT SERVICE;

18 B. THE PROFESSIONAL SERVICE; AND

19 C. THE SKILLED SERVICE WHO ARE EMPLOYED AS
 20 ACCOUNTANTS, AUDITORS, AND ENGINEERS.

21 ~~(III) IF A POSITION IS HELD BY AN EMPLOYEE IN THE~~
 22 ~~PROFESSIONAL SERVICE IN THE STATE PERSONNEL MANAGEMENT SERVICE ON~~
 23 ~~JUNE 30, 1999, THE POSITION SHALL BE DESIGNATED AS A SPECIAL APPOINTMENT~~
 24 ~~WHEN THE POSITION BECOMES VACANT.~~

25 ~~(E) EXCEPT FOR COMMISSION PERSONNEL IN POSITIONS SUBJECT TO~~
 26 ~~SUBSECTION (D)(8)(III) OF THIS SECTION, THE COMPENSATION OF PERSONNEL~~
 27 ~~UNDER SUBSECTION (D) OF THIS SECTION SHALL BE DETERMINED BY THE~~
 28 ~~COMMISSION AND, IF POSSIBLE, IN ACCORDANCE WITH THE STATE PAY PLAN.~~

29 (E) THE COMPENSATION OF THE FOLLOWING PERSONNEL SHALL BE
 30 DETERMINED BY THE COMMISSION AND, IF POSSIBLE, IN ACCORDANCE WITH THE
 31 STATE PAY PLAN:

32 (1) THE SPECIAL APPOINTMENT ATTORNEYS IN THE OFFICE OF THE
 33 GENERAL COUNSEL;

34 (2) EACH LICENSE HEARING OFFICER; AND

- 1 (3) ALL COMMISSION PERSONNEL IN POSITIONS IN:
 2 (I) THE MANAGEMENT SERVICE;
 3 (II) THE PROFESSIONAL SERVICE; AND
 4 (III) THE SKILLED SERVICE WHO ARE EMPLOYED AS ACCOUNTANTS,
 5 AUDITORS, AND ENGINEERS.

6 (F) (1) AT LEAST 45 DAYS BEFORE THE EFFECTIVE DATE OF THE CHANGE,
 7 THE COMMISSION SHALL SUBMIT TO THE SECRETARY OF BUDGET AND
 8 MANAGEMENT EACH CHANGE TO SALARY PLANS THAT INVOLVES INCREASES OR
 9 DECREASES IN SALARY RANGES OTHER THAN THOSE ASSOCIATED WITH ROUTINE
 10 RECLASSIFICATIONS AND PROMOTIONS OR GENERAL SALARY INCREASES APPROVED
 11 BY THE GENERAL ASSEMBLY.

12 (2) REPORTABLE CHANGES INCLUDE CREATION OR ABOLITION OF
 13 CLASSES, REGRADING THE CLASSES FROM ONE ESTABLISHED RANGE TO ANOTHER,
 14 OR CREATION OF NEW PAY SCHEDULES OR RANGES.

15 (3) THE SECRETARY OF BUDGET AND MANAGEMENT SHALL:

16 (I) REVIEW THE PROPOSED CHANGES; AND

17 (II) AT LEAST 15 DAYS BEFORE THE EFFECTIVE DATE OF THE
 18 PROPOSED CHANGES, ADVISE THE COMMISSION WHETHER THE CHANGES WOULD
 19 HAVE AN ADVERSE EFFECT ON COMPARABLE STATE JOBS.

20 (4) FAILURE OF THE SECRETARY TO RESPOND IN A TIMELY MANNER IS
 21 NOT CONSIDERED A STATEMENT OF ADVERSE EFFECT.

22 (G) ON OR BEFORE JANUARY 31 OF EACH YEAR, THE COMMISSION SHALL
 23 REPORT TO THE SECRETARY OF BUDGET AND MANAGEMENT AND, SUBJECT TO §
 24 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY SETTING
 25 FORTH ALL PERSONNEL POSITIONS, CLASSIFICATIONS, AND SALARIES IN THE
 26 COMMISSION AS OF THE END OF THE PRECEDING CALENDAR YEAR.

27 **~~Article -- State Finance and Procurement~~**

28 ~~41-203.~~

29 (a) ~~Except as provided in subsection (b) of this section, this Division II does~~
 30 ~~not apply to:~~

31 (1) ~~procurement by:~~

32 (xv) ~~the Forvm for Rural Maryland; [and]~~

33 (xvi) ~~the Maryland State Lottery Agency, for negotiating and~~
 34 ~~entering into private sector cooperative marketing projects that directly enhance~~

1 promotion of the Maryland State Lottery and its products, if the cooperative
2 marketing project:

3 1. provides a substantive promotional or marketing value
4 that the lottery determines acceptable in exchange for advertising or other
5 promotional activities provided by the lottery;

6 2. does not involve the advertising or other promotion of
7 alcohol or tobacco products; and

8 3. is reviewed by the Attorney General and approved by the
9 Maryland Lottery Director or the Director's designee; AND

10 (XVII) THE PUBLIC SERVICE COMMISSION.

11 (b) (1) The following provisions of this Division II apply to each procurement
12 enumerated in subsection (a) of this section:

13 (i) § 11-205 of this subtitle ("Fraud in procurement");

14 (ii) § 12-204 of this article ("Board approval for designated
15 contracts");

16 (iii) Title 12, Subtitle 2 of this article ("Supervision of Capital
17 Expenditures and Real Property Leases");

18 (iv) § 13-219 of this article ("Required clauses—Nondiscrimination
19 clause");

20 (v) § 13-221 of this article ("Disclosures to Secretary of State");

21 (vi) Title 16 of this article ("Debarment of Contractors"); and

22 (vii) Title 17 of this article ("Special Provisions—State and Local
23 Subdivisions").

24 (2) A procurement by an entity listed in subsection (a)(1)(i) through (xv)
25 of this section shall be made under procedures that promote the purposes stated in §
26 11-201(a) of this subtitle.

27 (3) (i) A unit that procures human, social, or educational services from
28 an entity enumerated in subsection (a)(2) of this section shall publish in the Contract
29 Weekly notice of a procurement contract or an extension or renewal of a procurement
30 contract if:

31 1. the procurement contract, extension, or renewal costs
32 more than \$25,000; and

33 2. the procurement is made for 3rd party clients described in
34 § 13-106 of this article.

1 (ii) The notice required under this paragraph shall be published not
2 more than 30 days after the execution and approval of the procurement contract or
3 the extension or renewal of the procurement contract.

4 (4) The purchase of advisory services from the General Selection Board
5 or the Transportation Selection Board under § 13-305 of this article shall be governed
6 by the Maryland Architectural and Engineering Services Act.

7 SECTION 2. AND BE IT FURTHER ENACTED, That the provisions of §
8 2-108(d)(8)(ii)7 of the Public Utility Companies Article, as enacted by Section 1 of this
9 Act, shall apply to and be construed to affect Commission personnel in positions in
10 existence on or after July 1, 1999.

11 SECTION 2: 3. AND BE IT FURTHER ENACTED, That this Act shall take
12 effect July 1, 1999.