

Department of Legislative Services  
 Maryland General Assembly  
 2005 Session

FISCAL AND POLICY NOTE

House Bill 1016 (Delegate G. Clagett, *et al.*)  
 Appropriations

State Personnel - Special Appointments - Limitations

This bill alters the requirements for a position to be considered a special appointment and requires the Department of Budget and Management (DBM) to evaluate all special appointment positions and determine which ones should remain special appointments and which ones should be reclassified.

The bill takes effect July 1, 2005.

Fiscal Summary

**State Effect:** FY 2006 general fund expenditures would increase by \$22,400 for contractual services required to evaluate special appointment positions. Potentially significant increase in general fund expenditures (not shown in the table below) for recruitment of individuals to fill positions formerly held by special appointees who do not meet the new requirements of the bill.

(in dollars)	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	22,400	0	0	0	0
Net Effect	(\$22,400)	\$0	\$0	\$0	\$0

*Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect*

**Local Effect:** None.

**Small Business Effect:** None.

## Analysis

**Bill Summary:** The bill limits positions in the skilled, professional, management, or executive service considered special appointments to:

- a position that performs a significant policy or decision making role or provides direct support to a member of the executive service, as determined by the Governor, the Board of Public Works (BPW), or the Secretary of Budget and Management;
- a position assigned to Government House; and
- a position assigned to the Governor's Office.

Additionally, the bill requires DBM to complete an evaluation of all positions in the State Personnel Management System (SPMS) to identify those special appointment positions that conform to the new requirements, as well as those positions which should be reclassified and a justification for each classification. The evaluation is to be completed by August 1, 2005 and reported to the General Assembly. Those positions that are reclassified and vacant or held by the incumbent for less than 12 months are to be advertised and filled through the same process as those positions which are not special appointments. Those incumbents who have held the positions for less than 12 months may apply for the reclassified positions, but are to be treated as any other applicant. The reclassifications must be completed by July 1, 2006.

The bill makes provisions for the enactment of the Housing and Community Development Article revision.

**Current Law:** The current requirements for a position to be a special appointment are:

- a position filled by a gubernatorial appointment not provided for by the State Constitution;
- a position which is filled by a direct appointee of BPW;
- a position that performs a significant policy role or provides direct support to a member of the executive service, as determined by the Secretary of Budget and Management;
- a position assigned to Government House;
- a position assigned to the Governor's Office; or
- any other position specified by law to be a special appointment.

**Background:** There are four classifications for employees in SPMS: skilled service, professional service, management service, and executive service. Nonprobationary  
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skilled and professional service employees who are not special appointments have the right of appeal for disciplinary action ranging from a written reprimand to termination with prejudice. Management and executive service employees may be terminated for any reason not legally prohibited, with no right of appeal, called “at-will” employees. Special appointments in any service do not have the right of appeal and are also considered “at-will.” **Exhibit 1** shows the distribution of “at-will” and special appointment positions across State government, excluding higher education institutions.

**State Fiscal Effect:** DBM advises and Legislative Services concurs that three temporary contractual employees would be required to complete a review of positions in special appointment status by August 1, 2005, at a total cost of \$22,400 in fiscal 2006.

Additionally, there would be costs associated with the reopening of recruitment for positions that do not meet the new requirements or if the incumbent has been in the position for less than 12 months. The precise fiscal impact of the recruitment is unknown, as it depends upon how many positions would be reclassified and how long the incumbent has been in that position. Until the evaluation of the special appointment positions by DBM is complete, it is unknown how many positions would be impacted by the new requirements. DBM advises, however, that of all the positions potentially affected by the bill, approximately 340 special appointees have been in their positions for less than 12 months. Due to the variations of the positions, the cost of recruitment efforts cannot be reliably quantified at this time, but could potentially be significant given advertising and staff costs associated with the recruitment process.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Department of Budget and Management, Department of Legislative Services

**Fiscal Note History:** First Reader - March 7, 2005  
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Analysis by: Joshua A. Watters

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510

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**Exhibit 1**  
**Fiscal 2005 Working Positions in “At-will” Status:**  
**Special Appointments, Executive Service, and Management Service**

<u>Department/Service Area</u>	<u>Total Workforce</u>	<u>At-Will</u>		<u>Special Appointments Only</u>	
		<u>FTE Positions</u>	<u>Percent of Workforce</u>	<u>FTE Positions</u>	<u>Percent of Workforce</u>
Legislature	740	552	74.6%	552	74.6%
Judiciary & Other Legal	4,735	826	17.4%	744	15.7%
Executive & Administrative	1,566	774	49.4%	539	34.4%
Financial & Revenue	2,035	209	10.2%	50	2.4%
Budget & Management	468	201	42.9%	134	28.6%
Retirement	180	70	38.9%	40	22.2%
General Services	712	92	12.9%	41	5.8%
Transportation	9,044	675	7.5%	-	0.0%
Natural Resources	1,417	183	12.9%	58	4.1%
Agriculture	430	39	9.0%	17	3.8%
Health & Mental Hygiene	7,548	540	7.2%	253	3.3%
Human Resources	7,297	330	4.5%	121	1.7%
Labor, Licensing, and Regulation	1,490	147	9.9%	57	3.8%
Public Safety & Correctional	11,195	543	4.8%	350	3.1%
MSDE and Other Education	1,938	1,027	53.0%	926	47.8%
Housing & Community	386	183	47.4%	100	25.9%
Business & Economic	299	257	86.0%	239	79.9%
Environment	954	126	13.2%	46	4.8%
Juvenile Services	1,963	130	6.6%	65	3.3%
Police & Fire Marshal	2,479	71	2.9%	52	2.1%
<b>Total Non-higher Education</b>	<b>56,874</b>	<b>6,972</b>	<b>12.3%</b>	<b>4,382</b>	<b>7.7%</b>

Note: Excludes positions that are to be abolished in the fiscal 2006 allowance.

Source: Department of Legislative Services, Department of Budget and Management

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