
By: **Senator Middleton**

Introduced and read first time: March 6, 2006

Assigned to: Rules

Re-referred to: Finance, March 8, 2006

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: April 3, 2006

CHAPTER _____

1 AN ACT concerning

2 **Governor's Appointments Office and Appointing Authorities - Duties**

3 FOR the purpose of prohibiting the Governor's Appointments Office from superseding
 4 or interfering with any function of certain appointing authorities in the
 5 Executive Branch of State government and the Secretary of the Department of
 6 Budget and Management with respect to the Secretary's functions regarding the
 7 State's personnel systems as assigned by law; prohibiting the Governor from
 8 delegating to the Appointments Office or any other unit, officer, official, or
 9 employee in the Office of the Governor or the Executive Branch any function or
 10 duty with respect to the ~~State's personnel systems, including the hiring and~~
 11 termination of at will and special appointments in the principal departments of
 12 the Executive Branch and ~~in independent State agencies~~ other units in the
 13 Executive Branch; providing a certain exception; providing that appointing
 14 authorities in the Executive Branch of the State government have certain
 15 exclusive powers and duties, including the power to appoint, transfer, reassign,
 16 discipline, and terminate employees under their jurisdiction; prohibiting an
 17 appointing authority from delegating final decisions on the termination of an
 18 employee; defining certain terms; and generally relating to gubernatorial
 19 appointments and appointing authorities in the Executive Branch of the State
 20 government.

21 BY adding to

22 Article - State Government

23 Section 8-3A-01 to be under the new subtitle "Subtitle 3A. Appointments Office

24 in State Government"

25 Annotated Code of Maryland

1 (2004 Replacement Volume and 2005 Supplement)

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

4 **Article - State Government**

5 SUBTITLE 3A. APPOINTMENTS ~~OFFICE~~ IN STATE GOVERNMENT.

6 8-3A-01.

7 (A) (1) ~~IN THIS SECTION,~~ IN THIS SECTION THE FOLLOWING WORDS HAVE
8 THE MEANINGS INDICATED.

9 (2) "OFFICE" MEANS THE APPOINTMENTS OFFICE IN THE OFFICE OF
10 THE GOVERNOR OR ANY OTHER UNIT, OFFICER, OFFICIAL, OR EMPLOYEE IN THE
11 OFFICE OF THE GOVERNOR OR THE EXECUTIVE BRANCH THAT PERFORMS THE
12 FUNCTION OF RECOMMENDING TO THE GOVERNOR THE APPOINTMENT OR
13 ~~NOMINATIONS~~ NOMINATION OF AN INDIVIDUAL TO SERVE AS A MEMBER OF A STATE
14 OR LOCAL BOARD, COMMISSION, COUNCIL, COMMITTEE, AUTHORITY, TASK FORCE,
15 OR OTHER ENTITY THAT BY LAW REQUIRES THE MEMBERSHIP TO BE APPOINTED IN
16 WHOLE OR IN PART BY THE GOVERNOR, WHETHER OR NOT THE APPOINTMENT OR
17 NOMINATION IS WITH THE ADVICE AND CONSENT OF THE SENATE OR HOUSE OF
18 DELEGATES.

19 (3) "APPOINTING AUTHORITY" MEANS AN INDIVIDUAL OR UNIT WITHIN
20 A PRINCIPAL DEPARTMENT OR AN INDIVIDUAL IN ANY OTHER UNIT IN THE
21 EXECUTIVE BRANCH OF STATE GOVERNMENT THAT HAS THE POWER TO MAKE
22 APPOINTMENTS AND TERMINATE EMPLOYMENT.

23 (B) (1) THE OFFICE MAY NOT SUPERSEDE OR INTERFERE WITH ANY
24 FUNCTION ASSIGNED BY LAW ~~TO~~ TO:

25 (I) AN APPOINTING AUTHORITY IN EACH PRINCIPAL DEPARTMENT
26 OR IN ANY OTHER UNIT IN THE EXECUTIVE BRANCH OF STATE GOVERNMENT; OR

27 (II) THE SECRETARY OF THE DEPARTMENT OF BUDGET AND
28 MANAGEMENT OR ANY UNIT OF THE DEPARTMENT OF BUDGET AND MANAGEMENT
29 UNDER THE PROVISIONS OF DIVISION I OF THE STATE PERSONNEL AND PENSIONS
30 ARTICLE.

31 (2) THE OFFICE, DIRECTLY OR INDIRECTLY, MAY NOT OVERRULE,
32 IGNORE, OR OTHERWISE BE INVOLVED WITH ANY DECISIONS MADE ~~BY~~ BY:

33 (I) AN APPOINTING AUTHORITY IN EACH PRINCIPAL DEPARTMENT
34 OR IN ANY OTHER UNIT IN THE EXECUTIVE BRANCH OF STATE GOVERNMENT; OR

35 (II) THE SECRETARY OF THE DEPARTMENT OF BUDGET AND
36 MANAGEMENT REGARDING ANY FUNCTION ASSIGNED BY LAW TO THE SECRETARY

1 OF THAT DEPARTMENT UNDER THE PROVISIONS OF DIVISION I OF THE STATE
2 PERSONNEL AND PENSIONS ARTICLE.

3 (C) (1) NOTWITHSTANDING ANY OTHER PROVISION OF LAW EXCEPT AS
4 PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE GOVERNOR MAY NOT
5 DELEGATE TO THE OFFICE OR ANY OTHER OFFICE, UNIT, OR INDIVIDUAL IN THE
6 OFFICE OF THE GOVERNOR OR THE EXECUTIVE BRANCH OF THE STATE
7 GOVERNMENT ANY AUTHORITY OR DUTY REGARDING THE PERSONNEL SYSTEMS IN
8 STATE GOVERNMENT, INCLUDING THE HIRING AND TERMINATION OF AT WILL AND
9 EMPLOYEES, INCLUDING SPECIAL APPOINTMENTS, WHO ARE IN THE PRINCIPAL
10 DEPARTMENTS OF THE EXECUTIVE BRANCH AND IN ANY STATE AGENCY
11 DESIGNATED BY LAW AS AN INDEPENDENT AGENCY OR IN ANY OTHER UNIT IN THE
12 EXECUTIVE BRANCH OF STATE GOVERNMENT.

13 (2) THE GOVERNOR MAY DELEGATE TO AN INDIVIDUAL IN THE OFFICE
14 OF THE GOVERNOR OR THE EXECUTIVE BRANCH OF STATE GOVERNMENT ANY
15 AUTHORITY OR DUTY REGARDING THE TERMINATION OF AT WILL EMPLOYEES,
16 INCLUDING SPECIAL APPOINTMENTS, WHO ARE:

17 (I) IN THE EXECUTIVE PAY PLAN;

18 (II) DIRECTLY APPOINTED BY THE GOVERNOR BY AN
19 APPOINTMENT THAT IS NOT PROVIDED FOR BY THE MARYLAND CONSTITUTION;

20 (III) APPOINTED BY OR WHO ARE ON THE STAFF OF THE GOVERNOR
21 OR LIEUTENANT GOVERNOR; OR

22 (IV) EMPLOYEES ASSIGNED TO THE GOVERNMENT HOUSE OR THE
23 GOVERNOR'S OFFICE.

24 (D) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, AN APPOINTING
25 AUTHORITY EXCLUSIVELY HAS THE POWERS SET FORTH IN SUBSECTION (E) OF THIS
26 SECTION.

27 (E) ONLY AN APPOINTING AUTHORITY MAY:

28 (1) APPOINT, PROMOTE, TRANSFER, REASSIGN, DISCIPLINE, AND
29 TERMINATE EMPLOYEES UNDER THE JURISDICTION OF THE APPOINTING
30 AUTHORITY; AND

31 (2) DELEGATE IN WRITING THE AUTHORITY TO ACT ON THE
32 APPOINTING AUTHORITY'S BEHALF, BUT ONLY TO ANY OTHER EMPLOYEE OR
33 OFFICER UNDER THE JURISDICTION OF THE APPOINTING AUTHORITY.

34 (F) AN APPOINTING AUTHORITY MAY NOT DELEGATE THE AUTHORITY TO
35 MAKE THE FINAL DECISION ON THE TERMINATION OF AN EMPLOYEE.

36 (G) AN APPOINTING AUTHORITY SHALL NOTIFY THE SECRETARY OF BUDGET
37 AND MANAGEMENT OF ANY DELEGATION OF AUTHORITY AUTHORIZED UNDER THIS
38 SECTION BY PROVIDING THE SECRETARY A COPY OF THE DELEGATION.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 June 1, 2006.