

Department of Legislative Services
Maryland General Assembly
2006 Session

FISCAL AND POLICY NOTE

Senate Bill 1070
Finance

(Senator Middleton)

State Personnel in Executive Branch - Termination for Political Affiliation -
Clarification

This bill provides that only employees in the executive service or under a special appointment serve at the pleasure of their appointing authority and may be terminated from employment for any reason that is not illegal or unconstitutional. Moreover, the bill clarifies that all personnel actions concerning employees or applicants for employment in the management service of the State Personnel Management System (SPMS) and independent personnel systems in the Executive Branch must be made without regard to political affiliation, belief, opinion, or any other nonmerit factor.

The bill takes effect June 1, 2006.

Fiscal Summary

State Effect: The bill's provisions would not directly impact State finances.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: By removing the management service from the list of employment classifications which serve at the pleasure of the appointing authority and may be terminated for any reason within the discretion of the appointing authority, the bill makes management service employees not at-will.

Current Law: Management service employees serve at the pleasure of their appointing authority and may be terminated from employment for any reason, solely in the discretion of the appointing authority. Statute provides, however, that personnel actions concerning a management service employee or applicant for a position in the management service must be made without regard to the employee's political affiliation, belief or opinion.

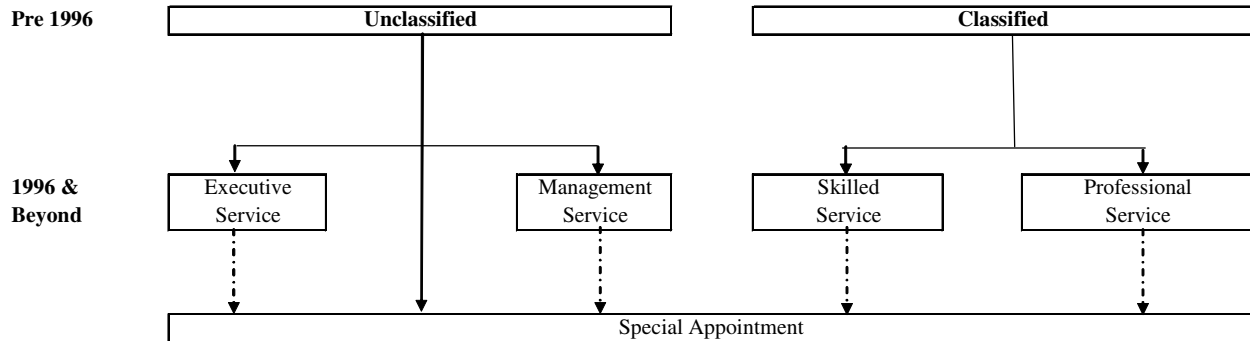
Background: The Task Force to Reform the State Personnel Management System issued its report recommending the restructuring of Maryland's personnel management system in January 1996. Chapter 347 of 1996, entitled *The State Personnel Management System Reform Act of 1996*, incorporated many of the task force's recommendations. It was the first time in over 70 years that the personnel system governing State employees was significantly restructured. Except for provisions relating to equal employment opportunity, the Act largely did not affect agencies with independent personnel systems such as the Maryland Department of Transportation (MDOT), and had no effect on the judicial or legislative branches of State government.

Classes of Employees and Appointments to State Service

Before the enactment of Chapter 347, State employees were essentially grouped into two categories – the classified service and the unclassified service. Most State employees were in the classified service; these employees enjoyed a full range of employee protection laws designed to eliminate abuses associated with political patronage. The unclassified service consisted of at-will State employees, who served at the pleasure of the appointing authority, positions exempted from the classified service by specific statutes, and positions in the executive pay plan.

As shown in **Exhibit 1**, Chapter 347 eliminated the classified and unclassified services and established four basic classes of regular employees: the skilled service, the professional service, the management service, and the executive service. The skilled and professional services generally comprised State employees who had been in the classified service; the management and executive services comprised many of the State employees who had been in the unclassified service, thereby retaining their at-will status.

Exhibit 1 Reclassifications Under Personnel Reform



Source: Department of Legislative Services

Most State employees are in the skilled service designation; they are selected on a competitive basis and enjoy full employee protections inherent in a merit system. Professional service employees have advanced knowledge in a field of science or learning acquired through special courses and study, often requiring a professional license or advanced degree. An employee is in the management service if the position involves direct oversight over personnel and financial resources and is not in the executive service. Executive service employees are generally political appointments at the highest levels of State government. Employees in the skilled and professional services are competitively selected and subject to termination for cause, while employees in the management and executive services are noncompetitively selected and subject to termination for any reason not legally prohibited. Statute was amended in 1997 to clarify that management service employees may not be dismissed based on political affiliation, beliefs, or opinions.

Chapter 347 also established within each of the classes of regular employees (skilled, professional, management, or executive service) a category of “special appointment employees” which retained several elements from the defunct unclassified service. Special appointments must meet any one of several specific criteria. For example, State law allows a position to be designated by the Secretary of Budget and Management as a special appointment if that position performs a significant policy role or directly supports members of the executive service. Most positions classified as special appointments, however, are specifically designated as such in the Annotated Code. About 80% of the special appointments, however, are at-will.

As shown in **Exhibit 2**, approximately 6,031 or 10.8% of SPMS and MDOT employees are considered at-will positions. Of these, approximately 1,869 are management service positions.

Exhibit 2
SPMS and MDOT Positions By Service
Fiscal 2005

<u>Service</u>	<u>Positions</u>	<u>% of Total</u>
Executive Service	188	0.3%
Management Service	1,869	3.3%
Special Appointment	3,167	5.7%
MDOT At-will*	807	1.4%
Subtotal At-will	6,031	10.8%
Professional Service	3,167	5.7%
Skilled Service	33,101	59.1%
Uniformed Police	1,597	2.8%
Independent Authority	363	0.6%
Special Appointment**	816	1.5%
MDOT Not At-will	9,275	16.5%
Subtotal Not At-will	48,319	86.2%
Unknown Classification/Vacant	1,702	3.0%
Total	56,052	100.0%

Note: Numbers may not sum to total due to rounding

*In MDOT, at-will employees are found in the Executive Service and in the Commission Pay Plan, and include Attorney General field positions assigned to the MDOT.

**Many of the not at-will special appointment positions are located in the Maryland State Department of Education.

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

Additional Comments: While the bill makes management service employees not at-will, the bill does not remove the management service from other provisions governing at-will employment, such as the disciplinary action appeals process for at-will employees.

Additional Information

Prior Introductions: None.

Cross File: None.

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

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ncs/ljm

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