

Department of Legislative Services
Maryland General Assembly
2006 Session

FISCAL AND POLICY NOTE

Senate Bill 1071

(Senator Middleton)

Finance

Task Force to Study the State Personnel Management System and Law

This bill establishes a Task Force to Study the State Personnel Management System (SPMS) and law to (1) review SPMS law and regulations, particularly as they relate to special appointment positions and the procedure for the creation of special appointments; (2) review and build on information and data provided to the Special Committee on State Employee Rights and Protections by the Department of Legislative Services; (3) thoroughly review the extent to which the 1996 personnel reforms may have led to unintended consequences; and (4) make recommendations for appropriate and effective legislative and administrative changes to the State's personnel systems. The task force must report its findings and recommendations to the President of the Senate and Speaker of the House of Delegates by December 31, 2006. DLS will staff the task force.

The bill takes effect June 1, 2006.

Fiscal Summary

State Effect: Any expense reimbursements for task force members and staffing costs for DLS are assumed to be absorbable within existing resources. Potential minimal administrative costs for the Department of Budget and Management (DBM). Revenues would not be affected.

Local Effect: None.

Small Business Effect: None.

Analysis

Background: The Legislative Policy Committee established the Special Committee on State Employee Rights and Protections to examine whether Maryland law affords sufficient protections for State personnel against involuntary separations for illegal or unconstitutional reasons and whether the manner in which Administrations have determined the subject of involuntary separations and effected such separations is fundamentally fair and consistent with best practices for personnel management. The special committee began meeting in the summer of 2005 and has received numerous briefings from DLS regarding the State's personnel systems. The committee continued to meet during the 2006 legislative session to hear testimony from State employees who were separated from State service.

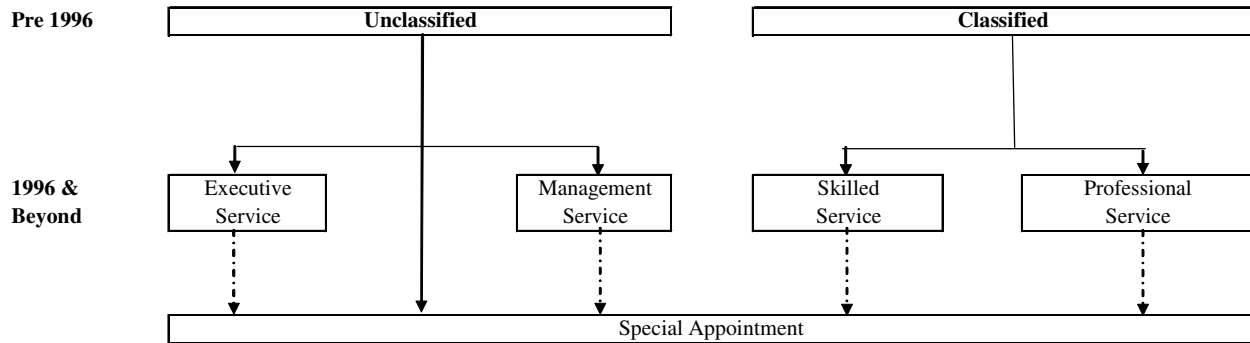
The Task Force to Reform the State Personnel Management System issued its report recommending the restructuring of Maryland's personnel management system in January 1996. Chapter 347 of 1996, entitled *The State Personnel Management System Reform Act of 1996*, incorporated many of the task force's recommendations. 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 are at-will.

As shown in **Exhibit 2**, approximately 6,031 or 10.8% of SPMS and MDOT employees are considered at-will 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

State Fiscal Effect: Assuming that outside experts would not be necessary, DLS advises that staffing the task force would be absorbable within existing resources.

Assuming that it would need to provide technical information and reports on the current personnel system to the task force, DBM advises that the bill could have an unquantifiable fiscal and operational impact on the department. DBM also expects that its information technology office would need to provide reports and that the assistant Attorney General for the Office of Personnel Services and Benefits would be called on for legal advice and counsel. DLS advises, however, that while there may be additional overtime necessary for certain DBM staff, given that DLS is staffing the task force and that membership on the task force includes the Attorney General or designee, a private-sector attorney with experience and expertise in personnel law, and two experts in best personnel management practices, any operational impact on DBM should be absorbable within existing resources.

Additional Information

Prior Introductions: None.

Cross File: None.

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

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mam/ljm

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