

Department of Legislative Services
Maryland General Assembly
2006 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 1068

(Senator Middleton)

Finance

Appropriations

Governor's Appointments Office and Appointing Authorities - Duties

This bill prohibits the Governor's Appointments Office from superseding or interfering with any function assigned by law to: (1) an appointing authority in any unit of the Executive Branch; or (2) the Secretary of Budget and Management or any unit of the department under certain statutory provisions. With specified exceptions, the Governor may not delegate any authority or duty regarding the termination of at-will employees (including special appointments) to the Appointments Office or any other office, unit, or individual in the Office of the Governor or the Executive Branch. Moreover, the bill specifies the exclusive powers of an appointing authority, and it provides for the delegation of some of these powers to another individual.

The bill takes effect June 1, 2006.

Fiscal Summary

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

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law/Background: The State Personnel Management System (SPMS) is under the authority of the Secretary of Budget and Management, thus the Secretary has a number of specified powers and duties regarding its operation. For example, the

Secretary may determine whether a position performs a significant policy role or provides direct support to a member of the executive service, for the purposes of determining whether a position would be classified as a special appointment. Moreover, the Secretary of Budget and Management also has the authority to resolve, with a binding settlement, a grievance appealed by an employee and to determine whether the principal unit employing the grievant will accept a settlement.

A number of Executive Branch departments and agencies have independent personnel systems, and thus are outside the scope of SPMS and the authority of the Secretary of Budget and Management regarding certain personnel matters. Departments and agencies with independent personnel systems include the Maryland Department of Transportation, the University System of Maryland, St. Mary's College of Maryland, and Morgan State University.

For the purposes of Division I of the State Personnel and Pensions Article, "appointing authority" means an individual or unit of government that has the power to make appointments and terminate employment. An appointing authority is authorized to take any personnel action consistent with the provisions of Division I of the State Personnel and Pensions Article, and the regulations, guidelines, policies, and procedures adopted under it. An appointing authority is required to cooperate with the Secretary of Budget and Management to ensure that Division I is properly enforced. Division I of the State Personnel and Pensions Article generally sets forth provisions governing State personnel.

Regulations provide that pursuant to the State Personnel and Pensions Article, the Annotated Code, and any personnel policies issued accordingly, an appointing authority, head of a principal unit, and management have exclusive authority to:

- appoint, promote, transfer, reassign, discipline, and terminate employees under the appointing authority's jurisdiction;
- direct and assign work;
- determine and redetermine, within the scope of budgetary limitations, the methods, means, personnel, and funding necessary to maintain efficient and effective government operations and properly effectuate the mission and objectives of the appointing authority's agency;
- assign each nontemporary employee to a position within a class and service designated by the Secretary of Budget and Management; and
- delegate, in writing, the authority to act on the appointing authority's behalf to any other employee or officer under the appointing authority's jurisdiction.

Regulations further provide that, unless otherwise provided by law, an appointing authority may not delegate the authority to make the final decision regarding disciplinary termination of a nontemporary employee. An appointing authority must notify the Secretary of Budget and Management of any delegation of authority by providing a copy of the delegation.

An at-will employee serves at the pleasure of an appointing authority or employer and his/her employment may be terminated for any reason at the discretion of the appointing authority or employer. A special appointment is a position in the skilled service, professional service, management service, or executive service that is exempted from the selection and termination provisions of that service because an individual is either directly appointed by the Governor or the Board of Public Works, the position 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), the position is assigned to the Government House or the Governor's Office, or the position is specified by law to be a special appointment.

Additional Information

Prior Introductions: None.

Cross File: None.

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

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