

Department of Legislative Services
Maryland General Assembly
2006 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 1069

(Senator Middleton)

Finance

Appropriations

State Personnel Management System - Employment - Clarifications

This bill provides that special appointments in the skilled, professional, and management services of the State Personnel Management System (SPMS) must be provided with a written position description and evaluated as prescribed in statute. Moreover, the bill clarifies that an employee under a special appointment or in the management or executive services may be terminated from employment for any reason that is not illegal or unconstitutional, solely in the discretion of the appointing authority. The Secretary of Budget and Management must develop a process through regulation that provides that all at-will employees are notified of their at-will status periodically.

The bill takes effect June 1, 2006.

Fiscal Summary

State Effect: Potential operational impact on and increase in administrative costs for agencies from writing position descriptions for certain special appointment positions, and for the Department of Budget and Management (DBM) from developing required regulations. Revenues would not be affected.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: Each SPMS employee in the skilled, professional, and management services must be provided with a written position description, which describes the essential duties and responsibilities the employee is expected to perform and the standards for satisfactory performance.

Each SPMS employee in the skilled, professional, and management services must receive a written performance appraisal at six-month intervals based on the employee's entry-on-duty date. The appointing authority must ensure that each of the unit's employees subject to laws regarding performance appraisals has performance evaluations in accordance with statute and procedures established by the Secretary of Budget and Management.

Employees in the management and executive services and employees serving under a special appointment 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: DBM advises that, currently, special appointment positions within SPMS receive employee evaluations.

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.

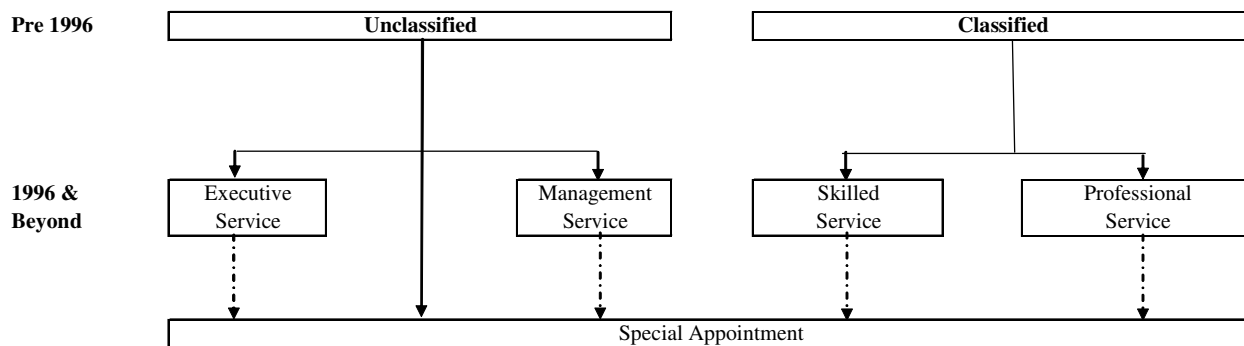
Classes of Employees and Appointments to State Service

Prior to 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.

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: There may be an operational impact and administrative costs due to drafting position descriptions for special appointees. The degree to which an agency would be impacted by this portion of the bill would depend on how many special appointment positions the agency has. Some agencies have relatively few special appointment positions, while many of the positions in other agencies may be filled by special appointment.

Furthermore, there may be a minimal operational impact on DBM from developing regulations regarding the notification of certain employees of their at-will status. Other provisions of the bill are clarifying or technical in nature and would not materially impact State finances or operations.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Budget and Management, Department of Human Resources, Department of Health and Mental Hygiene, Department of Public Safety and Correctional Services, Department of Legislative Services

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