

# HOUSE BILL 864

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By: **Delegates Benson, Anderson, Bobo, Braveboy, Burns, Conaway, Davis, Gilchrist, Glenn, Holmes, Howard, Jones, Kirk, Lawton, Montgomery, Nathan-Pulliam, Niemann, Oaks, Rosenberg, Stukes, Vaughn, and Weir**

Introduced and read first time: February 9, 2007

Assigned to: Appropriations

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## A BILL ENTITLED

1 AN ACT concerning

2 **Equal Employment Opportunity Office – Independent Unit**

3 FOR the purpose of making the Equal Employment Opportunity Office an  
4 independent unit; clarifying that the Equal Employment Opportunity  
5 Coordinator, rather than the Secretary of Budget and Management, shall  
6 administer the Office; requiring the head of each principal unit to authorize the  
7 unit's Office of Fair Practices, or otherwise named counterparts, to submit a  
8 certain budget to the principal unit for certain funding; clarifying that the Office  
9 of the Governor, rather than the Department of Budget and Management, shall  
10 provide training, assistance, and advice for equal employment opportunity  
11 officers and fair practices officers; requiring the members of the Joint  
12 Committee on Fair Practices to be appointed by a certain date following each  
13 gubernatorial election; requiring the Joint Committee to make certain  
14 recommendations to the Governor and the General Assembly in a certain  
15 manner; providing that the Joint Committee shall study how to eliminate  
16 certain employment disparities; creating an Equal Opportunity Advisory Board;  
17 providing for the membership and purpose of the Board; requiring the Board to  
18 meet a certain number of times per year; requiring the Board to make certain  
19 reports to the Governor and the General Assembly; and generally relating to the  
20 Equal Employment Opportunity Office.

21 BY repealing and reenacting, with amendments,  
22 Article – State Personnel and Pensions

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Section 5–201, 5–202, 5–204, 5–205, 5–206, 5–207, and 5–213 to be under the  
2 amended subtitle, “Subtitle 2. Equal Employment Opportunity Office in  
3 the Executive Branch of State Government”  
4 Annotated Code of Maryland  
5 (2004 Replacement Volume and 2006 Supplement)

6 BY adding to  
7 Article – State Personnel and Pensions  
8 Section 5–216  
9 Annotated Code of Maryland  
10 (2004 Replacement Volume and 2006 Supplement)

11 BY repealing and reenacting, with amendments,  
12 Chapter 347 of the Acts of the General Assembly of 1996  
13 Section 7 1.

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

16 **Article – State Personnel and Pensions**

17 Subtitle 2. Equal Employment Opportunity [Program] **OFFICE** in the Executive  
18 Branch of State Government.

19 5–201.

20 (a) In this subtitle the following words have the meanings indicated.

21 (b) “Coordinator” means the Equal Employment Opportunity Coordinator.

22 (c) [“Program”] **“OFFICE”** means the Equal Employment Opportunity  
23 [Program] **OFFICE** established under this subtitle.

24 (d) “Unit” means a unit of the Executive Branch of State government.

25 5–202.

26 (a) There is an Equal Employment Opportunity [Program, which is under  
27 the authority of the Secretary] **OFFICE ESTABLISHED AS AN INDEPENDENT UNIT.**

1 (b) The purpose of the [Program] **OFFICE** is to ensure a system based on  
2 merit that provides equal opportunity in employment on the basis of merit and fitness.

3 (c) The following employees and applicants for employment are included in  
4 the Program:

5 (1) an employee in any unit of the Executive Branch of State  
6 government, including a unit with an independent personnel system; and

7 (2) an applicant for a position in the skilled service, professional  
8 service, or management service, of the State Personnel Management System or a  
9 comparable position in an independent personnel system in the Executive Branch of  
10 State government.

11 5-204.

12 The [Secretary] **COORDINATOR** shall:

13 (1) administer the [Program] **OFFICE** in compliance with all  
14 applicable State and federal laws governing equal employment opportunity;

15 (2) adopt regulations, policies, and directives to implement the  
16 Program;

17 (3) evaluate the equal employment efforts in each unit in the  
18 [Program] **OFFICE**;

19 (4) take any action necessary and permitted by law to enforce this  
20 subtitle; and

21 (5) at least annually report on the [Program] **OFFICE** to the  
22 Governor.

23 5-205.

24 (a) In accordance with the provisions and intent of the Maryland  
25 Constitution and other laws of the State, each unit shall:

26 (1) comply with all applicable regulations, policies, guidelines, and  
27 directives of the [Secretary] **COORDINATOR** to carry out this section;

1           (2) cooperate fully with the Coordinator in the investigation of  
2 complaints of discrimination in violation of § 5–208 of this subtitle;

3           (3) (i) in accordance with the regulations, policies, guidelines, and  
4 directives of the [Secretary] **COORDINATOR**, annually prepare a plan that includes  
5 the development and implementation of policies and programs to ensure that  
6 protected group members are appropriately represented and that the personnel  
7 practices in the unit are not discriminatory; and

8           (ii) submit to the [Secretary] **COORDINATOR** the progress  
9 reports about the plan that the [Secretary] **COORDINATOR** requires;

10          (4) for each fiscal year, submit to the Coordinator by the following  
11 October 15 an annual report about the activities that the unit undertook in that fiscal  
12 year to implement the [Program] **PROGRAMS OF THE OFFICE**, including:

13           (i) information about personnel practices within the unit;

14           (ii) a summary of complaints filed, investigated, resolved, and  
15 pending; and

16           (iii) information about relations with other units of State  
17 government; and

18          (5) provide a copy of the annual report to the Maryland Human  
19 Relations Commission.

20          (b) Notwithstanding any other provision of this subtitle, the University  
21 System of Maryland may satisfy any reporting requirement required by this subtitle  
22 or by regulations adopted under this subtitle by submitting to the [Secretary]  
23 **COORDINATOR** an annual report on the System's equal employment opportunity  
24 policies and programs in such format as is determined by the System's Board of  
25 Regents.

26          (c) An appointing authority shall provide each employee subject to this  
27 subtitle with a notice of:

28           (1) the protections and remedies against employment discrimination  
29 available to the employee under:

30           (i) this subtitle;

1 (ii) the laws governing the Maryland Commission on Human  
2 Relations; and

3 (iii) the laws governing the Equal Employment Opportunity  
4 Commission; and

5 (2) the applicable time limitations for filing complaints under those  
6 laws.

7 5-206.

8 [(a)] The Governor, with the advice of the Joint Committee on Fair Practices,  
9 shall appoint an Equal Employment Opportunity Coordinator.

10 [(b)] The Coordinator shall:

11 (1) administer and enforce the Program; and

12 (2) investigate and, as appropriate, resolve complaints that involve  
13 allegations of violations of this subtitle.]

14 5-207.

15 (a) (1) The head of each principal unit shall appoint:

16 (i) a fair practices officer who:

17 1. reports directly to the head of the unit; and

18 2. is an assistant secretary or an employee of the unit  
19 with stature similar to that of an assistant secretary; and

20 (ii) an appropriate number of equal employment opportunity  
21 officers for the unit.

22 (2) If necessary, the fair practices officer of a unit may also be the  
23 unit's equal employment opportunity officer.

24 (3) All appointments under this subsection shall be made in  
25 accordance with position descriptions approved by the [Secretary] **COORDINATOR**.

1           **(B) THE HEAD OF EACH PRINCIPAL UNIT SHALL AUTHORIZE THE UNIT'S**  
2 **OFFICE OF FAIR PRACTICES, OR OTHERWISE NAMED COUNTERPARTS, TO**  
3 **SUBMIT A YEARLY BUDGET TO THE PRINCIPAL UNIT FOR PROGRAM FUNDING.**

4           **[(b)] (C)** The [Department] **OFFICE OF THE GOVERNOR** shall provide  
5 training, assistance, and advice for equal employment opportunity officers and fair  
6 practices officers.

7           **[(c)] (D)** Each fair practices officer shall:

8                   (1) implement the [Program] **PROGRAMS OF THE OFFICE** within the  
9 unit;

10                   (2) investigate and, as appropriate, resolve complaints filed under §  
11 5–211 of this subtitle; and

12                   (3) coordinate activities of equal employment opportunity officers in  
13 the unit.

14           **[(d)] (E)** An equal employment opportunity officer shall:

15                   (1) monitor all personnel actions adopted by the unit;

16                   (2) attest that procedures consistent with this article, the Governor's  
17 Code on Fair Practices, and other State and federal equal employment opportunity  
18 laws were followed by the unit in taking a personnel action; and

19                   (3) perform the duties assigned by the fair practices officer and any  
20 other duty required by this article.

21           **[(e)] (F)** An appointing authority shall delay the effective date of any  
22 adverse personnel action that directly affects an equal employment opportunity officer  
23 for up to 45 days, pending review and resolution by the Coordinator.

24 5–213.

25           (a) Within 10 days after receiving a decision under § 5–212 of this subtitle, a  
26 complainant may appeal the decision in writing to the [Secretary] **COORDINATOR**.

27           (b) Within 30 days after an appeal is received:

28                   (1) the Coordinator:

- 1 (i) shall review the complaint and the decision being appealed;
- 2 (ii) may conduct any necessary investigation; and
- 3 (iii) shall recommend to the [Secretary] **COORDINATOR** or **THE**  
4 **COORDINATOR'S** designee a finding of whether a violation of this subtitle has  
5 occurred; and
- 6 (2) the [Secretary] **COORDINATOR** or **THE COORDINATOR'S**  
7 designee shall:
- 8 (i) take the action described in subsection (c)(1) or (c)(2) of this  
9 section; and
- 10 (ii) issue to the parties a written decision that includes notice of  
11 any remedial action taken.
- 12 (c) (1) If the [Secretary] **COORDINATOR** or **THE COORDINATOR'S**  
13 designee determines that a violation has not occurred, the [Secretary]  
14 **COORDINATOR** or **THE COORDINATOR'S** designee shall dismiss the complaint.
- 15 (2) If the [Secretary] **COORDINATOR** or **THE COORDINATOR'S**  
16 designee determines that a violation has occurred, the [Secretary] **COORDINATOR** or  
17 **THE COORDINATOR'S** designee shall take appropriate remedial action.
- 18 (d) As remedial action for a violation of § 5-208 of this subtitle, the  
19 [Secretary] **COORDINATOR** or **THE COORDINATOR'S** designee may:
- 20 (1) order the removal of detrimental information from the  
21 complainant's State personnel records;
- 22 (2) require the head of the principal unit to:
- 23 (i) hire, promote, or reinstate the complainant or end the  
24 complainant's suspension from employment;
- 25 (ii) award the complainant back pay up to the day of the  
26 violation;
- 27 (iii) grant the complainant leave or seniority;

1 (iv) take appropriate disciplinary action against any individual  
2 who caused the violation; or

3 (v) take any other remedial action that the [Secretary]  
4 **COORDINATOR** or **THE COORDINATOR'S** designee considers appropriate.

5 (e) The decision of the [Secretary] **COORDINATOR** or **THE**  
6 **COORDINATOR'S** designee is final.

7 **5-216.**

8 (A) **THERE IS AN EQUAL OPPORTUNITY ADVISORY BOARD.**

9 (B) **THE ADVISORY BOARD SHALL BE COMPRISED OF THE FAIR**  
10 **PRACTICES OFFICER, OR THE OFFICER'S DESIGNEE, FOR THE OFFICE OF FAIR**  
11 **PRACTICES FROM EACH PRINCIPAL UNIT.**

12 (C) **THE PURPOSE OF THE ADVISORY BOARD IS TO PROVIDE**  
13 **CONSISTENCY TO THE EFFICIENCY AND EFFICACY OF STATEWIDE CIVIL RIGHTS**  
14 **PROGRAMS.**

15 (D) **THE ADVISORY BOARD SHALL MEET QUARTERLY.**

16 (E) **THE ADVISORY BOARD SHALL, AT LEAST ANNUALLY, REPORT ITS**  
17 **FINDINGS AND RECOMMENDATIONS TO THE GOVERNOR AND THE GENERAL**  
18 **ASSEMBLY IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT**  
19 **ARTICLE.**

20 **Chapter 347 of the Acts of 1996**

21 SECTION 7. AND BE IT FURTHER ENACTED, That the Laws of Maryland  
22 read as follows:

23 1. Legislative Joint Committee on Fair Practices.

24 (a) There is a Joint Committee on Fair Practices, which has oversight over  
25 matters in State government of equal employment opportunity policies and practices  
26 and procurement practices made under Executive Order.

27 (b) The Joint Committee shall be comprised of:



1           (1)    three members of the Senate, appointed by the President of the  
2 Senate; and

3           (2)    three members of the House of Delegates, appointed by the  
4 Speaker of the House.

5           **(C)    THE MEMBERS OF THE JOINT COMMITTEE SHALL BE APPOINTED,**  
6 **ORGANIZED, AND BEGIN DELIBERATIONS NO LATER THAN JULY 1 FOLLOWING**  
7 **EACH GUBERNATORIAL ELECTION.**

8           **[(c)]   (D)    The purpose of the Joint Committee shall be to:**

9                   (1)    review reports;

10                  (2)    evaluate the effectiveness of programs, policies, and practices;  
11 **[and]**

12                  (3)    identify areas of concern, and, as appropriate, **AT LEAST**  
13 **ANNUALLY** recommend corrective measures to the Governor and the General  
14 Assembly **IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT**  
15 **ARTICLE; AND**

16                  (4)    **STUDY HOW TO ELIMINATE GRADE AND SALARY DISPARITY**  
17 **AMONG PROFESSIONALS, ADMINISTRATORS, AND OFFICIALS WITH**  
18 **AGENCY-WIDE PROGRAMS INCLUDING:**

19                           **(I)    THE MINORITY BUSINESS ENTERPRISE;**

20                           **(II)   THE DEPARTMENT OF HUMAN RESOURCES' PROGRAM**  
21 **IMPROVEMENT PLAN; AND**

22                           **(III)   EQUAL OPPORTUNITY PROGRAMS.**

23           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
24 October 1, 2007.