

SENATE BILL 50

P1
SB 1068/06 – FIN

71r0801

By: **Senator Middleton**
Introduced and read first time: January 18, 2007
Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Governor's Appointments Office and Appointing Authorities – Duties**

3 FOR the purpose of prohibiting the Governor's Appointments Office from superseding
4 or interfering with any function of certain appointing authorities in the
5 Executive Branch of State government and the Secretary of the Department of
6 Budget and Management with respect to the Secretary's functions regarding the
7 State's personnel systems as assigned by law; prohibiting the Governor from
8 delegating to the Appointments Office or any other unit, officer, official, or
9 employee in the Office of the Governor or the Executive Branch any function or
10 duty with respect to the hiring and termination of at will and special
11 appointments in the principal departments of the Executive Branch and other
12 units in the Executive Branch; providing a certain exception; providing that
13 appointing authorities in the Executive Branch of State government have
14 certain exclusive powers and duties, including the power to appoint, transfer,
15 reassign, discipline, and terminate employees under their jurisdiction;
16 prohibiting an appointing authority from delegating final decisions on the
17 termination of an employee; defining certain terms; and generally relating to
18 gubernatorial appointments and appointing authorities in the Executive Branch
19 of State government.

20 BY adding to

21 Article – State Government
22 Section 8–3A–01 to be under the new subtitle “Subtitle 3A. Appointments in
23 State Government”
24 Annotated Code of Maryland
25 (2004 Replacement Volume and 2006 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 **Article – State Government**

4 **SUBTITLE 3A. APPOINTMENTS IN STATE GOVERNMENT.**

5 **8-3A-01.**

6 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE
7 MEANINGS INDICATED.

8 (2) “APPOINTING AUTHORITY” MEANS AN INDIVIDUAL OR UNIT
9 WITHIN A PRINCIPAL DEPARTMENT OR AN INDIVIDUAL IN ANY OTHER UNIT IN
10 THE EXECUTIVE BRANCH OF STATE GOVERNMENT THAT HAS THE POWER TO
11 MAKE APPOINTMENTS AND TERMINATE EMPLOYMENT.

12 (3) “OFFICE” MEANS THE APPOINTMENTS OFFICE IN THE
13 OFFICE OF THE GOVERNOR OR ANY OTHER UNIT, OFFICER, OFFICIAL, OR
14 EMPLOYEE IN THE OFFICE OF THE GOVERNOR OR THE EXECUTIVE BRANCH
15 THAT PERFORMS THE FUNCTION OF RECOMMENDING TO THE GOVERNOR THE
16 APPOINTMENT OR NOMINATION OF AN INDIVIDUAL TO SERVE AS A MEMBER OF
17 A STATE OR LOCAL BOARD, COMMISSION, COUNCIL, COMMITTEE, AUTHORITY,
18 TASK FORCE, OR OTHER ENTITY THAT BY LAW REQUIRES THE MEMBERSHIP TO
19 BE APPOINTED IN WHOLE OR IN PART BY THE GOVERNOR, WHETHER OR NOT
20 THE APPOINTMENT OR NOMINATION IS WITH THE ADVICE AND CONSENT OF THE
21 SENATE OR HOUSE OF DELEGATES.

22 (B) (1) THE OFFICE MAY NOT SUPERSEDE OR INTERFERE WITH ANY
23 FUNCTION ASSIGNED BY LAW TO:

24 (I) AN APPOINTING AUTHORITY IN EACH PRINCIPAL
25 DEPARTMENT OR IN ANY OTHER UNIT IN THE EXECUTIVE BRANCH OF STATE
26 GOVERNMENT; OR

27 (II) THE SECRETARY OF THE DEPARTMENT OF BUDGET
28 AND MANAGEMENT OR ANY UNIT OF THE DEPARTMENT OF BUDGET AND
29 MANAGEMENT UNDER THE PROVISIONS OF DIVISION I OF THE STATE
30 PERSONNEL AND PENSIONS ARTICLE.

1 **(2) THE OFFICE, DIRECTLY OR INDIRECTLY, MAY NOT**
2 **OVERRULE, IGNORE, OR OTHERWISE BE INVOLVED WITH ANY DECISIONS MADE**
3 **BY:**

4 **(I) AN APPOINTING AUTHORITY IN EACH PRINCIPAL**
5 **DEPARTMENT OR IN ANY OTHER UNIT IN THE EXECUTIVE BRANCH OF STATE**
6 **GOVERNMENT; OR**

7 **(II) THE SECRETARY OF THE DEPARTMENT OF BUDGET**
8 **AND MANAGEMENT REGARDING ANY FUNCTION ASSIGNED BY LAW TO THE**
9 **SECRETARY OF THAT DEPARTMENT UNDER THE PROVISIONS OF DIVISION I OF**
10 **THE STATE PERSONNEL AND PENSIONS ARTICLE.**

11 **(C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
12 **SUBSECTION, THE GOVERNOR MAY NOT DELEGATE TO THE OFFICE OR ANY**
13 **OTHER OFFICE, UNIT, OR INDIVIDUAL IN THE OFFICE OF THE GOVERNOR OR**
14 **THE EXECUTIVE BRANCH OF STATE GOVERNMENT ANY AUTHORITY OR DUTY**
15 **REGARDING THE TERMINATION OF ANY EMPLOYEE, INCLUDING MANAGEMENT**
16 **SERVICE AND SPECIAL APPOINTMENTS EMPLOYEES, WHO ARE IN THE**
17 **PRINCIPAL DEPARTMENTS OR IN ANY OTHER UNIT IN THE EXECUTIVE BRANCH**
18 **OF STATE GOVERNMENT.**

19 **(2) THE GOVERNOR MAY DELEGATE TO AN INDIVIDUAL IN THE**
20 **OFFICE OF THE GOVERNOR OR THE EXECUTIVE BRANCH OF STATE**
21 **GOVERNMENT ANY AUTHORITY OR DUTY REGARDING THE TERMINATION OF AT**
22 **WILL EMPLOYEES, INCLUDING SPECIAL APPOINTMENTS, WHO ARE:**

23 **(I) IN THE EXECUTIVE PAY PLAN;**

24 **(II) DIRECTLY APPOINTED BY THE GOVERNOR BY AN**
25 **APPOINTMENT THAT IS NOT PROVIDED FOR BY THE MARYLAND CONSTITUTION;**

26 **(III) APPOINTED BY OR WHO ARE ON THE STAFF OF THE**
27 **GOVERNOR OR LIEUTENANT GOVERNOR; OR**

28 **(IV) EMPLOYEES ASSIGNED TO THE GOVERNMENT HOUSE**
29 **OR THE OFFICE OF THE GOVERNOR.**

1 **(D) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, AN**
2 **APPOINTING AUTHORITY EXCLUSIVELY HAS THE POWERS SET FORTH IN**
3 **SUBSECTION (E) OF THIS SECTION.**

4 **(E) ONLY AN APPOINTING AUTHORITY MAY:**

5 **(1) APPOINT, PROMOTE, TRANSFER, REASSIGN, DISCIPLINE, AND**
6 **TERMINATE EMPLOYEES UNDER THE JURISDICTION OF THE APPOINTING**
7 **AUTHORITY; AND**

8 **(2) DELEGATE IN WRITING THE AUTHORITY TO ACT ON THE**
9 **APPOINTING AUTHORITY'S BEHALF, BUT ONLY TO ANY OTHER EMPLOYEE OR**
10 **OFFICER UNDER THE JURISDICTION OF THE APPOINTING AUTHORITY.**

11 **(F) AN APPOINTING AUTHORITY MAY NOT DELEGATE THE AUTHORITY**
12 **TO MAKE THE FINAL DECISION ON THE TERMINATION OF AN EMPLOYEE.**

13 **(G) AN APPOINTING AUTHORITY SHALL NOTIFY THE SECRETARY OF**
14 **BUDGET AND MANAGEMENT OF ANY DELEGATION OF AUTHORITY AUTHORIZED**
15 **UNDER THIS SECTION BY PROVIDING THE SECRETARY A COPY OF THE**
16 **DELEGATION.**

17 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
18 June 1, 2007.