

CHAPTER 516

(Senate Bill 50)

AN ACT concerning

Governor's Appointments Office and Appointing Authorities – Duties

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

BY adding to

Article – State Government

Section 8-3A-01 to be under the new subtitle “Subtitle 3A. Appointments in State Government”

Annotated Code of Maryland

(2004 Replacement Volume and 2006 Supplement)

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

Article – State Government

SUBTITLE 3A. APPOINTMENTS IN STATE GOVERNMENT.

8-3A-01.

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

(2) ~~“APPOINTING AUTHORITY” MEANS AN INDIVIDUAL OR UNIT WITHIN A PRINCIPAL DEPARTMENT OR AN INDIVIDUAL IN ANY OTHER UNIT IN THE EXECUTIVE BRANCH OF STATE GOVERNMENT THAT HAS THE POWER TO MAKE APPOINTMENTS AND TERMINATE EMPLOYMENT~~ HAS THE MEANING STATED IN § 1-101(B) OF THE STATE PERSONNEL AND PENSIONS ARTICLE.

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

(B) THE OFFICE MAY NOT DIRECT OR OVERRULE AN APPOINTING AUTHORITY, THE SECRETARY OF BUDGET AND MANAGEMENT, OR ANY UNIT OF THE DEPARTMENT OF BUDGET AND MANAGEMENT, ON ANY DECISION TO APPOINT, PROMOTE, TRANSFER, REASSIGN, DISCIPLINE, OR TERMINATE AN EMPLOYEE UNDER THE JURISDICTION OF THE APPOINTING AUTHORITY.

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

~~(i) AN APPOINTING AUTHORITY IN EACH PRINCIPAL DEPARTMENT OR IN ANY OTHER UNIT IN THE EXECUTIVE BRANCH OF STATE GOVERNMENT; OR~~

~~(ii) THE SECRETARY OF THE DEPARTMENT OF BUDGET AND MANAGEMENT OR ANY UNIT OF THE DEPARTMENT OF BUDGET AND MANAGEMENT UNDER THE PROVISIONS OF DIVISION I OF THE STATE PERSONNEL AND PENSIONS ARTICLE.~~

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

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

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

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

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

~~(I) IN THE EXECUTIVE PAY PLAN;~~

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

~~(III) APPOINTED BY OR WHO ARE ON THE STAFF OF THE GOVERNOR OR LIEUTENANT GOVERNOR; OR~~

~~(IV) EMPLOYEES ASSIGNED TO THE GOVERNMENT HOUSE OR THE OFFICE OF THE GOVERNOR.~~

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

~~(E)~~ (C) ONLY AN APPOINTING AUTHORITY MAY:

~~(1) APPOINT, PROMOTE, TRANSFER, REASSIGN, DISCIPLINE, AND TERMINATE EMPLOYEES UNDER THE JURISDICTION OF THE APPOINTING AUTHORITY; AND~~

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

~~(F)~~ (D) AN APPOINTING AUTHORITY MAY NOT DELEGATE THE AUTHORITY TO MAKE THE FINAL DECISION ON THE TERMINATION OF AN EMPLOYEE.

~~(G)~~ (E) AN APPOINTING AUTHORITY SHALL NOTIFY THE SECRETARY OF BUDGET AND MANAGEMENT OF ANY DELEGATION OF AUTHORITY AUTHORIZED UNDER THIS SECTION BY PROVIDING THE SECRETARY A COPY OF THE DELEGATION.

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

Approved by the Governor, May 17, 2007.