

HOUSE BILL 611

P4

9lr2723
CF 9lr1834

By: **Delegate G. Clagett**

Introduced and read first time: February 6, 2009

Assigned to: Appropriations

A BILL ENTITLED

1 AN ACT concerning

2 **State Personnel – Attorney General – Special Appointments**

3 FOR the purpose of establishing that certain staff members in the Office of the
4 Attorney General are special appointments who may not be determined to be
5 political special appointments under certain provisions of State personnel law;
6 establishing that certain staff positions in the Office of the Attorney General are
7 political special appointments under certain provisions of State personnel law;
8 making certain conforming and clarifying changes; and generally relating to
9 special appointments in the Office of the Attorney General.

10 BY repealing and reenacting, with amendments,
11 Article – State Government
12 Section 6–105
13 Annotated Code of Maryland
14 (2004 Replacement Volume and 2008 Supplement)

15 BY repealing and reenacting, with amendments,
16 Article – State Personnel and Pensions
17 Section 6–405
18 Annotated Code of Maryland
19 (2004 Replacement Volume and 2008 Supplement)

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

22 **Article – State Government**

23 6–105.

24 (a) (1) The Attorney General may employ a staff in accordance with the
25 State budget.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2) Staff members appointed under this subsection:

2 (i) **NOTWITHSTANDING ANY OTHER LAW, AND EXCEPT AS**
 3 **PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION,** are deemed special
 4 appointments within the meaning of [§ 6-405] § **6-405(A)** of the State Personnel and
 5 Pensions Article; [and]

6 **(II) MAY NOT BE DETERMINED TO BE SPECIAL**
 7 **APPOINTMENTS UNDER § 6-405(B) OF THE STATE PERSONNEL AND PENSIONS**
 8 **ARTICLE; AND**

9 [(ii)] **(III)** serve at the pleasure of the Attorney General.

10 **(3) THE FOLLOWING POSITIONS ARE SPECIAL APPOINTMENTS**
 11 **UNDER § 6-405(B) OF THE STATE PERSONNEL AND PENSIONS ARTICLE:**

12 **(I) DEPUTY ATTORNEY GENERAL;**

13 **(II) SPECIAL ASSISTANT TO THE ATTORNEY GENERAL;**

14 **(III) EXECUTIVE COUNSEL TO THE ATTORNEY GENERAL;**

15 **(IV) DIRECTOR OR CHIEF OF A DIVISION OR UNIT IN THE**
 16 **OFFICE; AND**

17 **(V) PRINCIPAL COUNSEL TO A STATE UNIT.**

18 [(3)] **(4)** (i) Staff appointed under this subsection is entitled to
 19 compensation as provided in the State budget.

20 (ii) Unless the State budget provides otherwise, the salary of a
 21 Deputy Attorney General, assistant Attorney General, or special attorney appointed
 22 under this subsection is payable from the funds of the Office.

23 [(4)] **(5)** Staff is entitled to reimbursement for expenses under the
 24 Standard State Travel Regulations, as provided in the State budget.

25 (b) (1) In addition to any other staff appointed under this section, the
 26 Attorney General, with the written approval of the Governor, may employ any
 27 assistant counsel that the Attorney General considers necessary to carry out any duty
 28 of the Office in an extraordinary or unforeseen case or in special county work.

29 (2) The Attorney General shall submit to the Governor a written
 30 request that:

1 (i) states the necessity of and each reason for the special
2 employment; and

3 (ii) states the proposed compensation and its source or certifies
4 that the Attorney General cannot ascertain in advance the proper compensation.

5 (3) Compensation that cannot be ascertained in advance may be
6 agreed on or adjusted later.

7 (c) (1) In addition to any other staff appointed under this section, the
8 Attorney General may employ special counsel to defend a State officer or State
9 employee under Title 12, Subtitle 3 of this article if the Attorney General determines
10 that representation by the Attorney General or an assistant is impracticable or
11 uneconomical.

12 (2) The special counsel is entitled to compensation, as set by the
13 Attorney General and approved by the Board of Public Works, under Title 12, Subtitle
14 5 of this article.

15 (d) Each Deputy Attorney General, assistant Attorney General, or special
16 attorney appointed under subsection (a) of this section shall be a practicing lawyer of
17 the State in good standing.

18 (e) (1) The Attorney General may assign any duty that the law imposes
19 on the Attorney General to a Deputy Attorney General, assistant Attorney General, or
20 special attorney appointed under subsection (a) of this section or, to the extent
21 permitted by law, a law clerk.

22 (2) The Deputy Attorney General, assistant Attorney General, special
23 attorney, or law clerk shall perform the assigned duty, subject to the control of the
24 Attorney General.

25 Article – State Personnel and Pensions

26 6–405.

27 (a) Except as otherwise provided by law, individuals in the following
28 positions in the skilled service, professional service, management service, or executive
29 service are considered special appointments:

30 (1) a position to which an individual is directly appointed by the
31 Governor by an appointment that is not provided for by the Maryland Constitution;

32 (2) a position to which an individual is directly appointed by the Board
33 of Public Works;

34 (3) as determined by the Secretary, a position which performs a
35 significant policy role or provides direct support to a member of the executive service;

- 1 (4) a position that is assigned to the Government House;
- 2 (5) a position that is assigned to the Governor's Office; and
- 3 (6) any other position that is specified by law to be a special
4 appointment.

5 (b) [A] **EXCEPT AS PROVIDED UNDER § 6-105(A) OF THE STATE**
6 **GOVERNMENT ARTICLE, A** position that is a special appointment may be filled with
7 regard to political affiliation, belief, or opinion if the Secretary determines that the
8 position:

9 (1) relates to political interests or concerns so as to warrant that
10 political affiliation be a requirement for the position; and

11 (2) (i) requires the provision of meaningful direct or indirect input
12 into the policy-making process; or

13 (ii) provides access to confidential information and:

14 1. requires substantial intervention or collaboration in
15 the formulation of public policy; or

16 2. requires the provision of direct advice or the
17 rendering of direct services to an appointing authority.

18 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
19 October 1, 2009.