

SENATE BILL 548

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CF HB 609

By: **Senators Lam, Beidle, Feldman, Hettleman, Kelley, Sydnor, Washington, and Young**

Introduced and read first time: January 31, 2022

Assigned to: Education, Health, and Environmental Affairs

Reassigned: Finance, February 4, 2022

Committee Report: Favorable with amendments

Senate action: Adopted with floor amendments

Read second time: March 8, 2022

CHAPTER _____

1 AN ACT concerning

2 **Local Health Officers – Removal – ~~Grounds and~~ Process**

3 FOR the purpose of repealing a provision of law providing that a health officer serves at
4 the pleasure of the Secretary of Health and the governing body of the county;
5 establishing ~~the reasons for which a health officer may be removed from office and~~
6 notice and hearing requirements related to a removal of a health officer from office;
7 prohibiting a health officer who appeals a certain decision of the Secretary from
8 carrying out the duties of health officer while the appeal is pending; and generally
9 relating to the removal of health officers.

10 BY repealing and reenacting, with amendments,

11 Article – Health – General

12 Section 3–302

13 Annotated Code of Maryland

14 (2019 Replacement Volume and 2021 Supplement)

15 BY repealing and reenacting, with amendments,

16 Article – State Personnel and Pensions

17 Section 11–305

18 Annotated Code of Maryland

19 (2015 Replacement Volume and 2021 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



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

3 **Article – Health – General**

4 3–302.

5 (a) The health officer for a county shall be nominated by the county and appointed
6 by the Secretary.

7 (b) (1) The governing body of each county shall establish, by ordinance or
8 resolution, the process by which the county nominates an individual for health officer.

9 (2) If a vacancy occurs in the position of health officer for a county, the
10 governing body shall establish a process, in consultation with the Department, for making
11 a recommendation to the Secretary for the appointment of a health officer.

12 (3) The process established under paragraph (2) of this subsection shall
13 include the requirements for recruiting, interviewing, and recommending applicants for the
14 position of health officer.

15 (c) (1) If the Secretary finds that a nominee meets the qualifications of this
16 section, the Secretary shall appoint the nominee as health officer.

17 (2) If the Secretary finds that the nominee does not meet the qualifications
18 of this section, the Secretary shall reject the nomination, and the county shall provide the
19 Secretary with another nomination.

20 (d) Each health officer:

21 (1) Shall have:

22 (i) A master's degree in public health and at least 2 years' work in
23 the field of public health; or

24 (ii) At least 5 years' work in the field of public health;

25 (2) Shall have any other qualifications and training in the field of public
26 health that the Secretary requires by rule or regulation; and

27 (3) Need not be a physician, if the health officer has a deputy who:

28 (i) Is a physician; and

29 (ii) Meets the qualifications of this subsection.

1 (e) Before taking office, each appointee to the office of health officer shall take the
2 oath required by Article I, § 9 of the Maryland Constitution.

3 [(f) The health officer for a county serves at the pleasure of the governing body of
4 that county and the Secretary.]

5 [(g)] **(F)** (1) The health officer for a county may be removed from office with
6 the concurrence of the governing body of that county and the Secretary ~~FOR THE~~
7 ~~FOLLOWING REASONS:~~

8 ~~(I) IMMORALITY;~~

9 ~~(II) MISCONDUCT IN OFFICE;~~

10 ~~(III) INSUBORDINATION;~~

11 ~~(IV) INCOMPETENCY; OR~~

12 ~~(V) WILLFUL NEGLECT OF DUTY.~~

13 (2) (i) Any information concerning the removal of a health officer from
14 office is confidential in accordance with Title 4 of the General Provisions Article.

15 (ii) Any meeting of the governing body of a county or any meeting
16 that includes the Secretary related to the removal of a health officer from office shall be
17 closed.

18 **(3) (I) IF THE SECRETARY AND THE GOVERNING BODY CONCUR ON**
19 **THE REMOVAL OF A HEALTH OFFICER, THE SECRETARY SHALL PROVIDE WRITTEN**
20 **NOTIFICATION TO THE HEALTH OFFICER THAT INCLUDES:**

21 1. **THE BASIS FOR THE REMOVAL,** ~~SUBJECT TO THE~~
22 ~~REASONS LISTED IN PARAGRAPH (1) OF THIS SUBSECTION;~~

23 2. **DOCUMENTATION SUPPORTING THE REMOVAL; AND**

24 3. **NOTICE OF THE OPPORTUNITY TO REQUEST A**
25 **HEARING WITH THE SECRETARY WITHIN 10 DAYS AFTER RECEIPT OF THE WRITTEN**
26 **NOTIFICATION AND INFORMATION ON HOW TO REQUEST THE HEARING.**

27 **(II) IF THE HEALTH OFFICER REQUESTS A HEARING WITH THE**
28 **SECRETARY:**

29 1. **THE SECRETARY PROMPTLY SHALL HOLD A HEARING,**
30 **PROVIDED THAT THE HEARING MAY NOT BE HELD ~~WITHIN~~ SOONER THAN 10 DAYS**

1 OR LATER THAN 30 DAYS AFTER THE SECRETARY SENDS THE HEALTH OFFICER A
 2 NOTICE OF THE ~~HEARING DATE~~ REMOVAL; AND

3 2. THE HEALTH OFFICER SHALL HAVE AN OPPORTUNITY
 4 TO BE HEARD ~~PUBLICLY~~ BEFORE THE SECRETARY IN THE HEALTH OFFICER'S
 5 DEFENSE, ~~WHETHER IN PERSON OR BY COUNSEL~~; AND

6 3. THE SECRETARY SHALL MAKE A FINAL DECISION NOT
 7 LATER THAN 10 DAYS AFTER THE DATE OF THE HEARING.

8 (4) ~~(H) A NOT LATER THAN 30 DAYS AFTER THE SECRETARY MAKES~~
 9 ~~A DECISION UNDER PARAGRAPH (3) OF THIS SUBSECTION, A HEALTH OFFICER MAY~~
 10 ~~APPEAL THE DECISION OF THE SECRETARY AT A HEARING REQUESTED MADE UNDER~~
 11 ~~PARAGRAPH (3)(H) OF THIS SUBSECTION TO THE OFFICE OF ADMINISTRATIVE~~
 12 ~~HEARINGS REQUEST A HEARING BEFORE THE APPROPRIATE CIRCUIT COURT TO~~
 13 ~~ENSURE THAT THE PROCEEDINGS FOR THE REMOVAL OF THE HEALTH OFFICER~~
 14 ~~WERE CONDUCTED IN ACCORDANCE WITH PARAGRAPH (3) OF THIS SUBSECTION NOT~~
 15 ~~LATER THAN 30 DAYS AFTER THE SECRETARY MADE THE DECISION.~~

16 ~~(H) A HEALTH OFFICER WHO APPEALS THE DECISION OF THE~~
 17 ~~SECRETARY UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH MAY NOT CARRY OUT~~
 18 ~~THE DUTIES OF HEALTH OFFICER WHILE THE APPEAL IS PENDING.~~

19 Article – State Personnel and Pensions

20 11-305.

21 (a) (1) This section [only] applies ONLY to an employee who is in a position:

22 [(1)] (I) under a special appointment;

23 [(2)] (II) in the management service; or

24 [(3)] (III) in the executive service.

25 (2) THIS SECTION DOES NOT APPLY TO A HEALTH OFFICER
 26 APPOINTED UNDER § 3-302 OF THE HEALTH – GENERAL ARTICLE.

27 (b) Each employee subject to this section:

28 (1) serves at the pleasure of the employee's appointing authority; and

29 (2) may be terminated from employment for any reason that is not illegal
 30 or unconstitutional, solely in the discretion of the appointing authority.

1 (c) A management service employee or a special appointment employee
2 designated by the Secretary under § 4–201(c)(2)(i) of this article may not be terminated for
3 the purpose of creating a new position for another individual’s appointment because of that
4 individual’s political affiliation, belief, or opinion.

5 (d) An employee or an employee’s representative may file a written appeal of an
6 employment termination under this section as described under § 11–113 of this title.

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
8 October 1, 2022.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.