

Department of Legislative Services
Maryland General Assembly
2022 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 548
Finance

(Senator Lam, *et al.*)

Health and Government Operations

Local Health Officers - Removal - Process

This bill repeals the provision that specifies that the health officer for a county serves at the pleasure of the governing body of that county and the Secretary of Health. Instead, if the Secretary and the appropriate governing body concur on the removal of a health officer, the Secretary must provide written notification of removal to the health officer, as specified. A health officer may request a hearing with the Secretary and request that the appropriate circuit court review the removal proceedings, as specified. The bill clarifies that a health officer does not serve at the pleasure of his or her appointing authority, and specified provisions of law regarding termination of employees do not apply to a health officer.

Fiscal Summary

State Effect: The Maryland Department of Health can implement the bill using existing budgeted resources. Revenues are not affected.

Local Effect: The bill is not expected to materially affect local operations or finances, including the workload of the circuit courts.

Small Business Effect: None.

Analysis

Bill Summary: If the Secretary and the appropriate governing body concur on the removal of a health officer, the Secretary must provide written notice to the health officer that includes (1) the basis for removal; (2) documentation supporting the removal; and

(3) notice of the opportunity to request a hearing with the Secretary within 10 days of receiving the notice, and information on how to request the hearing.

If a health officer requests a hearing, the Secretary must promptly hold a hearing (not sooner than 10 or later than 30 days after the Secretary sends the health officer a notice of the removal). The health officer must have an opportunity to be heard before the Secretary in the health officer's defense. The Secretary must make a final decision within 10 days after the hearing.

Within 30 days after the Secretary makes a decision, a health officer may request a hearing before the appropriate circuit court to ensure that the proceedings for the removal of the health officer were conducted in accordance with the bill's provisions.

Current Law:

Health Officer Provisions

Nomination: The health officer for a county must be nominated by the county and appointed by the Secretary. The governing body of each county must establish the process for nominations and the process for making a recommendation to the Secretary (in consultation with the Secretary) for appointing a new health officer should a vacancy occur. The process for filling a vacancy must include the requirements for recruiting, interviewing, and recommending applicants for the position of health officer.

Appointment: If the Secretary finds that a health officer nominee meets the specified qualifications, the nominee must be appointed. If the Secretary finds that the nominee does not meet the qualifications, the nominee must be rejected, and the county must provide the Secretary with a new nomination.

Qualifications: Each health officer must have a (1) master's degree in public health and at least two years' work in the field of public health or (2) at least five years' work in the field of public health. A health officer must also meet any other qualifications and training in the field of public health as required by the Secretary by rule or regulation. A health officer is not required to be a physician if the health officer has a deputy who is a physician and meets the qualifications for a health officer. Each health officer must take a specified oath before taking office.

Removal: The health officer serves at the pleasure of the appropriate county's governing body and the Secretary. The health officer may be removed from office with the concurrence of the governing body of the appropriate county and the Secretary. All information concerning the removal of a health officer is confidential. As such, any

meeting related to the removal of a health officer involving the county's governing body or that includes the Secretary must be closed.

Termination of Employees in the State Personnel Management System

Under § 11-305 of the State Personnel and Pensions Article, an employee who is in a position under a special appointment, in the management service, or in the executive service, serves at the pleasure of the employee's appointing authority and may be terminated from employment for any reason that is not illegal or unconstitutional, solely in the discretion of the appointing authority. A management service employee or a special appointment employee may not be terminated for the purpose of creating a new position for another individual's appointment because of that individual's political affiliation, belief, or opinion. An employee or an employee's representative may file a written appeal of an employment termination as specified.

Additional Information

Prior Introductions: None.

Designated Cross File: HB 609 (Delegate Pena-Melnyk, *et al.*) - Health and Government Operations.

Information Source(s): Maryland Association of County Health Officers; Maryland Association of Counties; Maryland Department of Health; Office of Administrative Hearings; Department of Legislative Services

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