



Maryland

DEPARTMENT OF BUDGET
AND MANAGEMENT

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Lieutenant Governor

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Secretary

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HOUSE BILL 90 State Personnel Management System – Office of the Public Defender – Placement (Henson)

STATEMENT OF INFORMATION - (AMENDMENTS)

DATE: January 18, 2022

COMMITTEE: House Appropriations

SUMMARY OF BILL: HB 90 removes the assistant public defenders and other positions in the Office of Public Defender from appointed positions and places them into a merit protected status. Assistant Public Defenders, intake specialists and investigators shall be placed in bargaining unit F for social and human services professionals. The Deputy Public Defender is in the executive service of the and the district public defender is in the management service. Employees in the professional or skill service categories may only be terminated for cause. By January 1, 2023, the Secretary of the Department of Budget and Management shall assign each appointee or employee of the Office to the appropriate employment category.

EXPLANATION: HB 90 converts assistant public defenders and other positions in the Office from at-will employees to merit protected employees.

A long-standing practice in the State is to not simply convert at-will employees to merit protected positions without a competitive recruitment. Typically, these positions are only converted to merit upon vacancy. Incoming employees would then gain merit-protected status after going through the state's competitive selection process, which is a fundamental tenet of the merit system. Typically, similar legislation has included provisions that make employees merit protected only upon vacancy, including major personnel reform legislation (Ch. 690 of 2009) that repealed the automatic at-will status of a number of groups of employees throughout the State government. Therefore, employees hired into those positions would be hired on a competitive basis.

The Department respectfully suggests that such an amendment is appropriate and requests that it be added to HB 90. On page 7, strike lines 4-7, and substitute:

“SECTION 2. AND BE IT FURTHER ENACTED, That a position identified to change employment category as a result of Section 1 of this Act shall remain an at-will position until the position becomes vacant.”

Further, on page 6, in lines 2-6, the bill takes authority away from the State Labor Relations Board (SLRB) to determine the appropriate bargaining unit into which assistant public defenders, intake specialists and investigators shall be assigned. There is no valid reason to statutorily mandate that these positions be represented by AFSCME bargaining unit F for social and human services professionals and the determination should be left to the SLRB.

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