

# HOUSE BILL 765

P4, P1

4lr0102

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By: **Chair, Appropriations Committee (By Request – Departmental – Budget and Management)**

Introduced and read first time: February 3, 2014

Assigned to: Appropriations

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: February 26, 2014

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **State Personnel – Authority to Set Compensation**

3 FOR the purpose of altering certain provisions of law that authorize certain State  
4 officials or certain units of State government to take certain personnel actions  
5 and set the compensation of certain employees, staff, or positions in State  
6 government; authorizing certain State officials or certain units of State  
7 government to set the compensation of certain employees in certain positions;  
8 requiring the Secretary of Budget and Management, in consultation with the  
9 officials or units, to determine the positions for which the officials or units may  
10 set compensation; repealing the authority of certain officials or units to take  
11 certain personnel actions or set the compensation of certain employees, staff, or  
12 positions; providing that certain appointments, personnel actions, and setting of  
13 compensation be in accordance with the State budget; making stylistic and  
14 conforming changes; and generally relating to State personnel, hiring authority,  
15 and the authority to set compensation for certain State employees in State  
16 government.

17 BY repealing and reenacting, with amendments,  
18 Article – Correctional Services  
19 Section 8–206  
20 Annotated Code of Maryland  
21 (2008 Replacement Volume and 2013 Supplement)

22 BY repealing and reenacting, with amendments,

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**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 Article – Economic Development  
2 Section 2–115  
3 Annotated Code of Maryland  
4 (2008 Volume and 2013 Supplement)

5 BY repealing and reenacting, with amendments,  
6 Article – Environment  
7 Section 9–1604  
8 Annotated Code of Maryland  
9 (2007 Replacement Volume and 2013 Supplement)

10 BY repealing and reenacting, with amendments,  
11 Article – Health – General  
12 Section 19–107(d) and 19–206(d)  
13 Annotated Code of Maryland  
14 (2009 Replacement Volume and 2013 Supplement)

15 BY repealing and reenacting, with amendments,  
16 Article – Health Occupations  
17 Section 14–204(d)  
18 Annotated Code of Maryland  
19 (2009 Replacement Volume and 2013 Supplement)

20 BY repealing and reenacting, with amendments,  
21 Article – Insurance  
22 Section 2–105, 14–503(g), and 31–105(c), (d), and (e)  
23 Annotated Code of Maryland  
24 (2011 Replacement Volume and 2013 Supplement)

25 BY repealing and reenacting, with amendments,  
26 Article – Labor and Employment  
27 Section 8–305(b)  
28 Annotated Code of Maryland  
29 (2008 Replacement Volume and 2013 Supplement)

30 BY repealing and reenacting, with amendments,  
31 Article – Public Safety  
32 Section 3–206  
33 Annotated Code of Maryland  
34 (2011 Replacement Volume and 2013 Supplement)

35 BY repealing and reenacting, with amendments,  
36 Article – State Government  
37 Section 9–108(e)  
38 Annotated Code of Maryland  
39 (2009 Replacement Volume and 2013 Supplement)

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

3 **Article – Correctional Services**

4 8–206.

5 (a) (1) With the approval of the Secretary, the Commission shall appoint  
6 an Executive Director.

7 (2) The Executive Director shall perform general administrative  
8 functions.

9 (3) The Executive Director serves at the pleasure of the Commission.

10 (b) (1) With the approval of the Secretary, the Commission shall appoint a  
11 Deputy Director and any other employees that the Commission considers necessary to  
12 perform general administrative and training management functions.

13 (2) The Deputy Director and other employees appointed under  
14 paragraph (1) of this subsection shall serve at the pleasure of the Commission.

15 [(c) With the approval of the Secretary, the Commission shall employ other  
16 individuals as necessary to carry out this subtitle.]

17 **(C) IN ACCORDANCE WITH THE STATE BUDGET, THE COMMISSION MAY**  
18 **SET THE COMPENSATION OF:**

19 **[(d) (1) [The] THE Executive Director[,] AND the Deputy Director[.]; and**

20 **(2) [other employees of the Commission are entitled to receive**  
21 **compensation as established by the Commission in accordance with the State budget]**  
22 **A COMMISSION EMPLOYEE IN A POSITION THAT:**

23 **(I) IS UNIQUE TO THE COMMISSION;**

24 **(II) REQUIRES SPECIFIC SKILLS OR EXPERIENCE TO**  
25 **PERFORM THE DUTIES OF THE POSITION; AND**

26 **(III) DOES NOT REQUIRE THE EMPLOYEE TO PERFORM**  
27 **FUNCTIONS THAT ARE COMPARABLE TO FUNCTIONS PERFORMED IN OTHER**  
28 **UNITS OF THE EXECUTIVE BRANCH OF STATE GOVERNMENT.**

29 **(D) THE SECRETARY OF BUDGET AND MANAGEMENT, IN**  
30 **CONSULTATION WITH THE COMMISSION, SHALL DETERMINE THE POSITIONS**

1 FOR WHICH THE COMMISSION MAY SET COMPENSATION UNDER SUBSECTION (C)  
2 OF THIS SECTION.

3 **Article – Economic Development**

4 2–115.

5 (a) In accordance with the State budget, the Secretary [shall] MAY set the  
6 compensation of A Department [employees] EMPLOYEE IN A POSITION THAT:

7 (1) IS UNIQUE TO THE DEPARTMENT;

8 (2) REQUIRES SPECIFIC SKILLS OR EXPERIENCE TO PERFORM  
9 THE DUTIES OF THE POSITION; AND

10 (3) DOES NOT REQUIRE THE EMPLOYEE TO PERFORM FUNCTIONS  
11 THAT ARE COMPARABLE TO FUNCTIONS PERFORMED IN OTHER UNITS OF THE  
12 EXECUTIVE BRANCH OF STATE GOVERNMENT.

13 (b) The Secretary of Budget and Management shall determine:

14 (1) position categories for special appointments in the Department;  
15 AND

16 (2) IN CONSULTATION WITH THE SECRETARY, THE POSITIONS  
17 FOR WHICH THE SECRETARY MAY SET COMPENSATION UNDER SUBSECTION (A)  
18 OF THIS SECTION.

19 **Article – Environment**

20 9–1604.

21 (A) In addition to the powers set forth elsewhere in this subtitle, but subject  
22 to such rules or program directives as the Secretary may from time to time prescribe,  
23 the Administration may:

24 (1) Adopt and alter an official seal;

25 (2) Sue and be sued, plead, and be impleaded;

26 (3) Adopt bylaws, rules, and regulations to carry out the provisions of  
27 this subtitle;

28 (4) Maintain an office at such place as the Secretary may designate;



1 19-107.

2 (d) (1) The Commission may employ a staff in accordance with the State  
3 budget.

4 (2) The Commission, in consultation with the Secretary, [shall  
5 determine the appropriate job classifications and grades for all staff] **MAY SET THE  
6 COMPENSATION OF A COMMISSION EMPLOYEE IN A POSITION THAT:**

7 (I) **IS UNIQUE TO THE COMMISSION;**

8 (II) **REQUIRES SPECIFIC SKILLS OR EXPERIENCE TO  
9 PERFORM THE DUTIES OF THE POSITION; AND**

10 (III) **DOES NOT REQUIRE THE EMPLOYEE TO PERFORM  
11 FUNCTIONS THAT ARE COMPARABLE TO FUNCTIONS PERFORMED IN OTHER  
12 UNITS OF THE EXECUTIVE BRANCH OF STATE GOVERNMENT.**

13 (3) **THE SECRETARY OF BUDGET AND MANAGEMENT, IN  
14 CONSULTATION WITH THE SECRETARY, SHALL DETERMINE THE POSITIONS FOR  
15 WHICH THE COMMISSION MAY SET COMPENSATION UNDER PARAGRAPH (2) OF  
16 THIS SUBSECTION.**

17 19-206.

18 (d) (1) The Commission may employ a staff in accordance with the State  
19 budget.

20 (2) The Commission, in consultation with the Secretary, [shall  
21 determine the appropriate job classifications and grades for all staff] **MAY SET THE  
22 COMPENSATION OF A COMMISSION EMPLOYEE IN A POSITION THAT:**

23 (I) **IS UNIQUE TO THE COMMISSION;**

24 (II) **REQUIRES SPECIFIC SKILLS OR EXPERIENCE TO  
25 PERFORM THE DUTIES OF THE POSITION; AND**

26 (III) **DOES NOT REQUIRE THE EMPLOYEE TO PERFORM  
27 FUNCTIONS THAT ARE COMPARABLE TO FUNCTIONS PERFORMED IN OTHER  
28 UNITS OF THE EXECUTIVE BRANCH OF STATE GOVERNMENT.**

29 (3) **THE SECRETARY OF BUDGET AND MANAGEMENT, IN  
30 CONSULTATION WITH THE COMMISSION, SHALL DETERMINE THE POSITIONS  
31 FOR WHICH THE COMMISSION MAY SET COMPENSATION UNDER PARAGRAPH (2)  
32 OF THIS SUBSECTION.**



1 (b) All employees of the Administration that serve in a management,  
2 professional, or technical capacity are in the executive service, management service, or  
3 are special appointments in the State Personnel Management System and serve at the  
4 pleasure of the Commissioner.

5 (c) [The compensation of personnel under subsection (b) of this section shall  
6 be determined by the Commissioner and, if possible, in accordance with the State pay  
7 plan] **IN ACCORDANCE WITH THE STATE BUDGET, THE COMMISSIONER MAY SET**  
8 **THE COMPENSATION OF AN EMPLOYEE UNDER SUBSECTION (B) OF THIS**  
9 **SECTION IN A POSITION THAT:**

10 (1) **IS UNIQUE TO THE ADMINISTRATION;**

11 (2) **REQUIRES SPECIFIC SKILLS OR EXPERIENCE TO PERFORM**  
12 **THE DUTIES OF THE POSITION; AND**

13 (3) **DOES NOT REQUIRE THE EMPLOYEE TO PERFORM FUNCTIONS**  
14 **THAT ARE COMPARABLE TO FUNCTIONS PERFORMED IN OTHER UNITS OF THE**  
15 **EXECUTIVE BRANCH OF STATE GOVERNMENT.**

16 (d) **THE SECRETARY, IN CONSULTATION WITH THE COMMISSIONER,**  
17 **SHALL DETERMINE THE POSITIONS FOR WHICH THE COMMISSIONER MAY SET**  
18 **COMPENSATION UNDER SUBSECTION (C) OF THIS SECTION.**

19 [(d)] (E) (1) At least 45 days before the effective date of the change, the  
20 Commissioner shall submit to the Secretary each change to salary plans that involves  
21 increases or decreases in salary ranges other than those associated with routine  
22 reclassifications and promotions or general salary increases approved by the General  
23 Assembly.

24 (2) Reportable changes include creation or abolition of classes,  
25 regrading the classes from one established range to another, or creation of new pay  
26 schedules or ranges.

27 (3) The Secretary shall:

28 (i) review the proposed changes; and

29 (ii) at least 15 days before the effective date of the proposed  
30 changes, advise the Commissioner whether the changes would have an adverse effect  
31 on comparable State jobs.

32 (4) Failure of the Secretary to respond in a timely manner is not  
33 considered a statement of adverse effect.



1 (g) (1) The Executive Director may employ a staff for the Plan in  
2 accordance with the State budget.

3 (2) Staff for the Plan are in the executive service, management  
4 service, or are special appointments in the State Personnel Management System.

5 (3) The Executive Director, in consultation with the Department of  
6 Budget and Management, [may determine the appropriate job classifications and  
7 grades for all staff] **MAY SET THE COMPENSATION OF A PLAN EMPLOYEE IN A  
8 POSITION THAT:**

9 (I) **IS UNIQUE TO THE PLAN;**

10 (II) **REQUIRES SPECIFIC SKILLS OR EXPERIENCE TO  
11 PERFORM THE DUTIES OF THE POSITION; AND**

12 (III) **DOES NOT REQUIRE THE EMPLOYEE TO PERFORM  
13 FUNCTIONS THAT ARE COMPARABLE TO FUNCTIONS PERFORMED IN OTHER  
14 UNITS OF THE EXECUTIVE BRANCH OF STATE GOVERNMENT.**

15 (4) **THE SECRETARY OF BUDGET AND MANAGEMENT, IN  
16 CONSULTATION WITH THE EXECUTIVE DIRECTOR, SHALL DETERMINE THE  
17 POSITIONS FOR WHICH THE EXECUTIVE DIRECTOR MAY SET COMPENSATION  
18 UNDER PARAGRAPH (3) OF THIS SUBSECTION.**

19 31-105.

20 (c) (1) [The] **IN ACCORDANCE WITH THE STATE BUDGET, THE**  
21 **Executive Director may employ and retain a staff for the Exchange.**

22 (2) (I) **THE EXECUTIVE DIRECTOR MAY SET THE  
23 COMPENSATION OF AN EXCHANGE EMPLOYEE IN A POSITION THAT:**

24 1. **IS UNIQUE TO THE EXCHANGE;**

25 2. **REQUIRES SPECIFIC SKILLS OR EXPERIENCE TO  
26 PERFORM THE DUTIES OF THE POSITION; AND**

27 3. **DOES NOT REQUIRE THE EMPLOYEE TO PERFORM  
28 FUNCTIONS THAT ARE COMPARABLE TO FUNCTIONS PERFORMED IN OTHER  
29 UNITS OF THE EXECUTIVE BRANCH OF STATE GOVERNMENT.**

30 (II) **THE SECRETARY OF BUDGET AND MANAGEMENT, IN  
31 CONSULTATION WITH THE EXECUTIVE DIRECTOR, SHALL DETERMINE THE**

1 **POSITIONS FOR WHICH THE EXECUTIVE DIRECTOR MAY SET COMPENSATION**  
2 **UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH.**

3 **(3)** Except as provided in paragraphs [(3) and (4)] **(4) AND (5)** of this  
4 subsection, or otherwise by law, the Executive Director's appointment, retention, and  
5 removal of staff of the Exchange are not subject to Division I of the State Personnel  
6 and Pensions Article.

7 **[(3)] (4)** In hiring staff for functions that must be performed by State  
8 personnel under the Affordable Care Act or other applicable federal or State laws, the  
9 Executive Director's appointment, retention, and removal of staff shall be in  
10 accordance with Division I of the State Personnel and Pensions Article.

11 **[(4)] (5)** In hiring staff for functions that have been and currently are  
12 performed by State personnel, the Executive Director's appointment, retention, and  
13 removal of staff shall be in accordance with Division I of the State Personnel and  
14 Pensions Article.

15 **[(5)] (6)** Except as provided in paragraph [(6)] **(7)** of this subsection,  
16 staff for all other positions necessary to carry out the purposes of this title shall be  
17 positions in the executive service or management service, or special appointments of  
18 the skilled service or the professional service in the State Personnel Management  
19 System.

20 **[(6)] (7)** The Executive Director may retain as independent  
21 contractors [or employees], and set compensation for, attorneys, financial consultants,  
22 and any other professionals or consultants necessary to carry out the planning,  
23 development, and operations of the Exchange and the provisions of this title.

24 (d) The Executive Director shall determine the classification, grade, and  
25 compensation of [staff of the Exchange] **THOSE POSITIONS** [hired or] designated  
26 under subsection [(c)(3), (4), and (5)] **(C)(2)** of this section:

- 27 (1) in consultation with the Secretary of Budget and Management;
- 28 (2) with the approval of the Board; and
- 29 (3) when possible, in accordance with the State pay plan.

30 (e) (1) With respect to staff of the Exchange [hired or] designated under  
31 subsection [(c)(3), (4), and (5)] **(C)(2)** of this section, the Executive Director shall  
32 submit to the Secretary of Budget and Management, at least 45 days before the  
33 effective date of the change, each change to the Exchange's salary plans that involves  
34 increases or decreases in salary ranges other than those associated with routine  
35 reclassifications and promotions or general salary increases approved by the General  
36 Assembly.

- 1           (2) Reportable changes include:
- 2           (i) the creation or abolition of classes;
- 3           (ii) the regrading of classes from one established range to  
4 another; and
- 5           (iii) the creation of new pay schedules or ranges.
- 6           (3) The Secretary of Budget and Management shall:
- 7           (i) review the proposed change; and
- 8           (ii) at least 15 days before the effective date of the proposed  
9 change:
- 10                   1. advise the Executive Director whether the change  
11 would have an adverse effect on comparable State jobs; and
- 12                   2. if there would be an adverse effect, recommend an  
13 alternative change that would not have an adverse effect on comparable State jobs.
- 14           (4) Failure of the Secretary of Budget and Management to respond in  
15 a timely manner is deemed to be agreement with the change as submitted.

## 16                                   **Article – Labor and Employment**

17 8–305.

- 18           (b) (1) In accordance with the provisions of the State Personnel and  
19 Pensions Article, the Secretary may employ the staff necessary to carry out this title.
- 20           (2) In accordance with the State budget, the Secretary [shall] **MAY** set  
21 the compensation of [staff employed] **AN EMPLOYEE** under this subsection **IN A**  
22 **POSITION THAT:**
- 23                                   **(I) IS UNIQUE TO THE DEPARTMENT;**
- 24                                   **(II) REQUIRES SPECIFIC SKILLS OR EXPERIENCE TO**  
25 **PERFORM THE DUTIES OF THE POSITION; AND**
- 26                                   **(III) DOES NOT REQUIRE THE EMPLOYEE TO PERFORM**  
27 **FUNCTIONS THAT ARE COMPARABLE TO FUNCTIONS PERFORMED IN OTHER**  
28 **UNITS OF THE EXECUTIVE BRANCH OF STATE GOVERNMENT.**





1                    **[(4)] (5)**    (i)    The Governor shall include in the State budget  
2 sufficient money for the Commission to hire, develop, and organize a staff to perform  
3 the functions of the Commission.

4                    (ii)    As deemed necessary by the Commission, the Commission  
5 shall hire experts including economists, gaming specialists, and lawyers.

6                    (iii)    1.    The Commission shall contract with an outside  
7 consultant to provide continual analysis of the gaming industry both within and  
8 outside the State and support the licensing activities of the Commission and the Video  
9 Lottery Facility Location Commission.

10                    2.    The cost of the consultant required under this  
11 subparagraph may be divided proportionally among the video lottery operation  
12 licensees as determined by the Commission.

13                    SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
14 July 1, 2014.

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.