HOUSE BILL 90

P4, P1 2lr0600 HB 1277/21 – APP (PRE–FILED) CF 2lr0601

By: Delegate Henson

Requested: September 29, 2021

Introduced and read first time: January 12, 2022

Assigned to: Appropriations

A BILL ENTITLED

1 AN ACT concerning

State Personnel Management System - Office of the Public Defender Placement and Collective Bargaining

4 FOR the purpose of specifying that certain positions within the Office of the Public 5 Defender are in certain employment categories in the State Personnel Management 6 System; altering certain provisions of law regarding personnel actions within the 7 Office that relate to the hiring, discipline, and termination of employees; providing that employees of the Office are subject to collective bargaining under the State 8 9 Personnel Management System; repealing a provision of law that excludes attorneys 10 in the Office from certain grievance procedures in the State Personnel Management 11 System; requiring the Secretary of Budget and Management to assign each 12 appointee or employee of the Office to the appropriate employment category within 13 the State Personnel Management System on or before a certain date; prohibiting any 14 appointee or employee of the Office from receiving a change in pay or benefits as a 15 result of a certain transfer or assignment except under certain circumstances; and generally relating to the personnel of the Office of the Public Defender in the State 16 17 Personnel Management System.

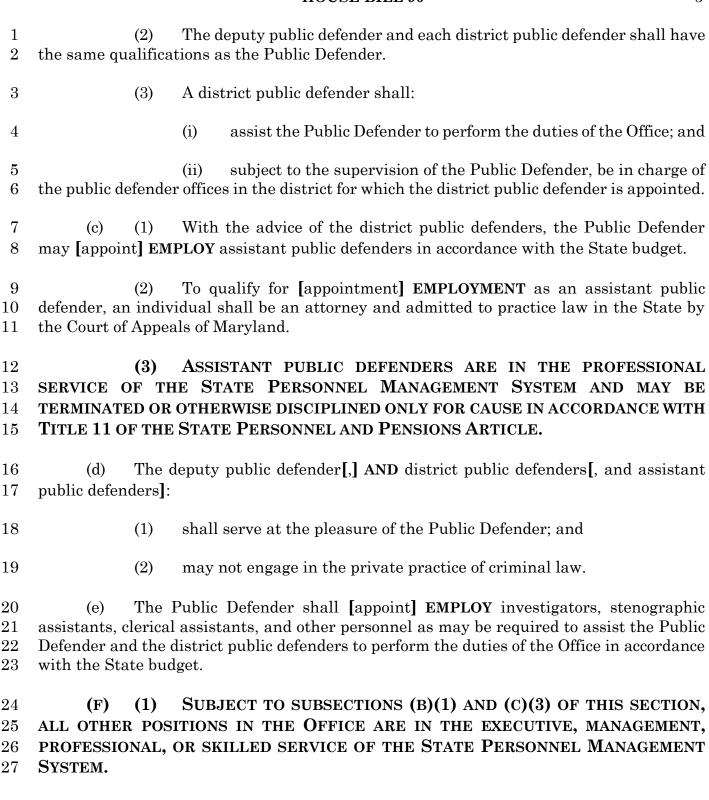
- 18 BY repealing and reenacting, with amendments,
- 19 Article Criminal Procedure
- 20 Section 16–203
- 21 Annotated Code of Maryland
- 22 (2018 Replacement Volume and 2021 Supplement)
- 23 BY repealing and reenacting, without amendments,
- 24 Article State Personnel and Pensions
- 25 Section 3–101(a)
- 26 Annotated Code of Maryland
- 27 (2015 Replacement Volume and 2021 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 2 3 4 5	BY repealing and reenacting, with amendments, Article – State Personnel and Pensions Section 3–101(b), 3–102(a), 3–205(a) and (c), and 12–102 Annotated Code of Maryland (2015 Replacement Volume and 2021 Supplement)							
6 7	SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:							
8	Article - Criminal Procedure							
9	16–203.							
10	(a)	(1)	The l	nead of the Office is the Public Defender.				
11		(2)	The l	Public Defender shall be appointed by the Board of Trustees.				
12 13	(3) By a vote of at least seven members, the Board of Trustees may remove the Public Defender for:							
14			(i)	misconduct in office;				
15			(ii)	persistent failure to perform the duties of the Office; or				
16			(iii)	conduct prejudicial to the proper administration of justice.				
17 18 19	(4) To qualify for appointment as Public Defender, an individual shall be an attorney admitted to practice law in the State by the Court of Appeals of Maryland who has engaged in the practice of law for at least 5 years before appointment.							
20 21	court.	(5)	The I	Public Defender shall receive the same salary as a judge of a circuit				
22		(6)	The l	Public Defender may not engage in the private practice of law.				
23		(7)	The l	Public Defender serves for a term of 6 years.				
24 25	(b) appoint:	(1)	With	the approval of the Board of Trustees, the Public Defender shall				
26 27	OF THE ST	ATE P	(i) ERSO	a deputy public defender WHO IS IN THE EXECUTIVE SERVICE NNEL MANAGEMENT SYSTEM; and				
28 29 30	EACH OF MANAGEM			one district public defender for each district of the District Court, THE MANAGEMENT SERVICE OF THE STATE PERSONNEL M.				



31 **[(f)] (G)** (1) Subject to paragraph (2) of this subsection, the Public Defender 32 shall establish and maintain suitable offices in the State.

TITLE 11 OF THE STATE PERSONNEL AND PENSIONS ARTICLE.

TERMINATED OR OTHERWISE DISCIPLINED ONLY FOR CAUSE IN ACCORDANCE WITH

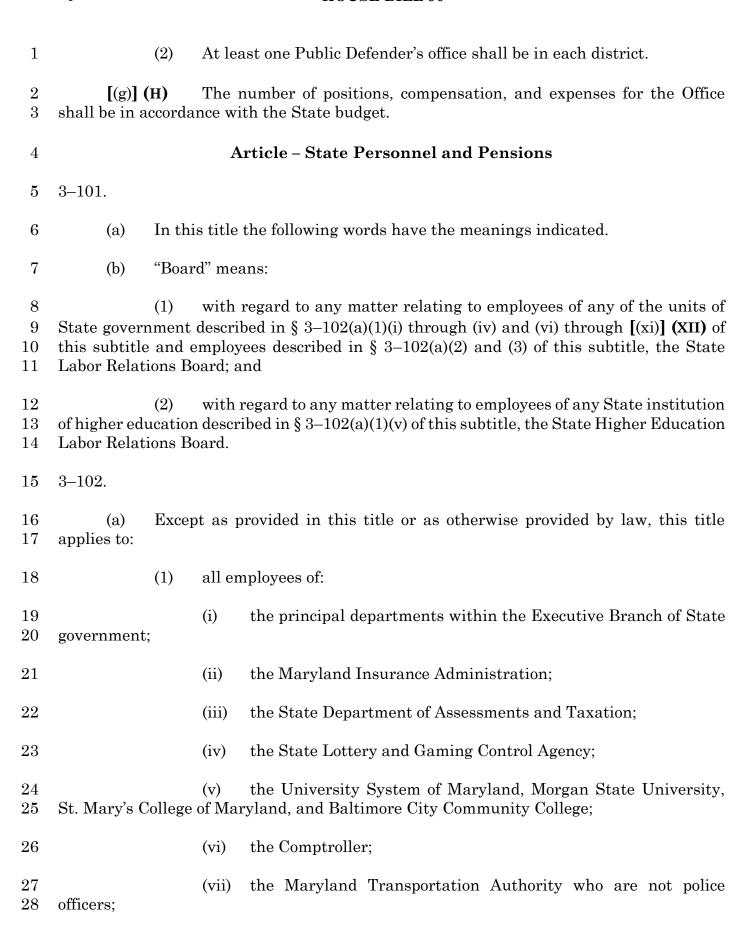
EMPLOYEES IN THE PROFESSIONAL OR SKILLED SERVICE MAY BE

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(2)



1		(viii)	the State Retirement Agency;
2		(ix)	the State Department of Education;
3		(x)	the Maryland Environmental Service; [and]
4		(xi)	the Maryland School for the Deaf; AND
5		(XII)	THE OFFICE OF THE PUBLIC DEFENDER;
6 7	(2) who are employed	_	ghters for the Martin State Airport at the rank of captain or below Military Department; and
8	(3) rank of first serges		ll-time Maryland Transportation Authority police officers at the lbelow.
10	3–205.		
11 12 13	, ,	nployee	is responsible for administering and enforcing provisions of this is described in § 3–102(a)(1)(i) through (iv) and (vi) through [(xi)] with the control of the control of the control of this interest of the control of the control of this interest of the control of this
14 15 16	(c) (1) units of governmentitle.		Board may not designate a unique bargaining unit for each of the attified in § 3–102(a)(1)(vi) through (ix) AND (XII) and (2) of this
17	(2)	At the	e request of the exclusive representative, the Board shall:
18 19 20 21		the uni	EXCEPT AS PROVIDED IN PARAGRAPH (4) OF THIS the appropriate existing bargaining unit into which to assign its of government identified in § 3–102(a)(1)(vi) through (ix) AND and
22		(ii)	accrete all positions to appropriate existing bargaining units.
23 24 25 26	bargaining unit re	presen	Notwithstanding Subtitle 4 of this title, at the request of the the Board shall conduct a self-determination election for each tative for the accreted employees in units of government identified gh (ix) AND (XII) and (2) of this title.
27		(ii)	All elections shall be conducted by secret ballot.
28 29	the ballot:	(iii)	For each election, the Board shall place the following choices on
30			1. the name of the incumbent exclusive representative; and

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1	2. a provision for "no exclusive representative".							
2 3	(4) THE BOARD SHALL ACCRETE POSITIONS TO EXISTING BARGAINING UNITS AS FOLLOWS:							
4 5 6	(I) ASSISTANT PUBLIC DEFENDERS, INTAKE SPECIALISTS, AND INVESTIGATORS IN THE OFFICE OF THE PUBLIC DEFENDER INTO BARGAINING UNIT F FOR SOCIAL AND HUMAN SERVICES PROFESSIONALS; AND							
7 8 9	(II) ALL OTHER POSITIONS IN THE OFFICE OF THE PUBLIC DEFENDER INTO APPROPRIATE EXISTING BARGAINING UNITS AS DETERMINED BY THE BOARD.							
10	12–102.							
11 12 13	State Personnel Management System within the Executive Branch and independent							
14	(b) This title does not apply to:							
15 16	(1) an employee who is appointed by the Governor whose appointment requires the Governor's approval;							
17 18	(2) an employee in the executive service of the State Personnel Management System;							
19	(3) a temporary employee;							
20 21	(4) an attorney in the Office of the Attorney General [or the Office of the Public Defender];							
22	(5) a State Police officer;							
23 24	(6) an employee under § 7–601 of the Transportation Article who is subject to a collective bargaining agreement that contains another grievance procedure;							
25 26	(7) an employee, including a member of a faculty, who is subject to a contract or regulation governing teacher tenure;							
27 28	(8) a member of the faculty, an officer, or an administrative employee of Baltimore City Community College;							
29	(9) a student employee;							

- 1 (10) an individual who, as an inmate or patient in an institution, is 2 employed by the State; or
- 3 (11) an administrative law judge in the Office of Administrative Hearings.

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- SECTION 2. AND BE IT FURTHER ENACTED, That on or before January 1, 2023, the Secretary of Budget and Management shall assign each appointee or employee of the Office of the Public Defender to the appropriate employment category in accordance with Section 1 of this Act.
- SECTION 3. AND BE IT FURTHER ENACTED, That, notwithstanding any other provision of law, any appointee or employee transferred to the State Personnel Management System or assigned to a bargaining unit in accordance with this Act may not receive a change in pay or benefits in the course of or as a result of the transfer or assignment, except to be placed on a new salary schedule at a grade and step that results in an increase in annual rate of pay or benefits.
- SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2022.