

SENATE BILL 751

P1, P4

9lr2822

By: **Senator Lam**

Introduced and read first time: February 4, 2019

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Governor's Appointments Office and the Secretary of Budget and Management –**
3 **At-Will Employees – Duties and Reports**

4 FOR the purpose of specifying that the Appointments Office in the Office of the Governor
5 is prohibited from interfering with, influencing, superseding, or assisting in any
6 decision made by certain appointing authorities, the Secretary of Budget and
7 Management, or certain units of the Department of Budget and Management on
8 certain decisions regarding certain employees; requiring the Appointments Office,
9 on or before a certain date and annually thereafter, to submit a certain report
10 regarding certain activities of the Appointments Office to a certain committee of the
11 General Assembly; requiring the Office of the Attorney General to operate or provide
12 for a certain hotline or e-mail address for certain purposes; authorizing the Office of
13 the Attorney General to contact certain complainants under certain circumstances;
14 requiring the Office of the Attorney General to submit a certain report to a certain
15 committee of the General Assembly on or before a certain date each year; requiring
16 the Secretary of Budget and Management to submit a certain annual report to a
17 certain committee of the General Assembly for each fiscal year; altering the contents
18 of a certain report; requiring that a certain position description include certain
19 information about at-will employment under certain circumstances; and generally
20 relating to the Appointments Office in the Office of the Governor, the Secretary of
21 Budget and Management, and at-will employment.

22 BY repealing and reenacting, with amendments,
23 Article – State Government
24 Section 8-3A-01
25 Annotated Code of Maryland
26 (2014 Replacement Volume and 2018 Supplement)

27 BY repealing and reenacting, with amendments,
28 Article – State Personnel and Pensions
29 Section 4-302 and 7-102(a)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Annotated Code of Maryland
2 (2015 Replacement Volume and 2018 Supplement)

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

5 **Article – State Government**

6 8–3A–01.

7 (a) (1) In this section the following words have the meanings indicated.

8 (2) “Appointing authority” has the meaning stated in § 1–101(b) of the
9 State Personnel and Pensions Article.

10 (3) “Office” means the Appointments Office in the Office of the Governor
11 that performs the function of recommending to the Governor the appointment or
12 nomination of an individual to serve as a member of a State or local board, commission,
13 council, committee, authority, task force, or other entity that by law requires the
14 membership to be appointed in whole or in part by the Governor, whether or not the
15 appointment or nomination is with the advice and consent of the Senate or House of
16 Delegates.

17 (b) The Office may not direct, overrule, **INTERFERE WITH, INFLUENCE,**
18 **SUPERSEDE, ASSIST IN ANY DECISION MADE BY,** or otherwise take any action regarding
19 the decision of an appointing authority, the Secretary of Budget and Management, or any
20 unit of the Department of Budget and Management to appoint, promote, transfer, reassign,
21 discipline, or terminate an employee under the jurisdiction of the appointing authority.

22 (c) Only an appointing authority may delegate in writing the authority to act on
23 the appointing authority’s behalf, but only to an employee or officer under the jurisdiction
24 of the appointing authority.

25 (d) An appointing authority may not delegate the authority to make the final
26 decision on the termination of an employee.

27 (e) An appointing authority shall notify the Secretary of Budget and Management
28 of any delegation of authority authorized under this section by providing the Secretary a
29 copy of the delegation.

30 **(F) (1) ON OR BEFORE DECEMBER 31, 2019, AND EACH DECEMBER 31**
31 **THEREAFTER, THE OFFICE SHALL, IN ACCORDANCE WITH § 2–1246 OF THIS**
32 **ARTICLE, SUBMIT A REPORT TO THE JOINT COMMITTEE ON FAIR PRACTICES AND**
33 **STATE PERSONNEL OVERSIGHT ON THE OFFICE’S ACTIVITIES REGARDING**
34 **EMPLOYEES THAT ARE UNDER THE JURISDICTION OF AN APPOINTING AUTHORITY.**

1 **(2) THE REPORT REQUIRED UNDER PARAGRAPH (1) OF THIS**
2 **SUBSECTION SHALL INCLUDE:**

3 **(I) THE NUMBER OF REFERRALS OR REQUESTS MADE FROM**
4 **ANY APPOINTING AUTHORITY TO THE OFFICE ON EMPLOYEE APPOINTMENTS,**
5 **PROMOTIONS, REASSIGNMENTS, DISCIPLINARY ACTIONS, OR TERMINATIONS;**

6 **(II) THE REASONS FOR THE REFERRALS OR REQUESTS**
7 **SPECIFIED UNDER ITEM (I) OF THIS PARAGRAPH, CATEGORIZED BY APPOINTING**
8 **AUTHORITY;**

9 **(III) THE TYPE OF INFORMATION PROVIDED BY THE OFFICE TO**
10 **AN APPOINTING AUTHORITY AS A RESULT OF A REFERRAL OR REQUEST MADE**
11 **UNDER ITEM (I) OF THIS PARAGRAPH, COMPILED BY TYPE AND NUMBER OF**
12 **INSTANCES USING THE FOLLOWING CATEGORIES:**

13 1. **CRIMINAL BACKGROUND INFORMATION;**

14 2. **PERSONAL FINANCIAL INFORMATION;**

15 3. **ORGANIZATIONAL OR POLITICAL AFFILIATIONS;**

16 4. **CONTROVERSIAL STATEMENTS OR PERSPECTIVES;**

17 **AND**

18 5. **OTHER CONFLICTS OF INTEREST;**

19 **(IV) THE WRITTEN POLICY OF THE OFFICE ON PROVIDING**
20 **INFORMATION TO AN APPOINTING AUTHORITY REGARDING AN EMPLOYEE**
21 **APPOINTMENT, PROMOTION, REASSIGNMENT, DISCIPLINARY ACTION, OR**
22 **TERMINATION:**

23 1. **ON REQUEST OR REFERRAL OF AN APPOINTING**
24 **AUTHORITY; AND**

25 2. **WHEN NOT REQUESTED BY AN APPOINTING**
26 **AUTHORITY;**

27 **(V) THE NUMBER OF APPLICANTS AND EMPLOYEES REQUIRED**
28 **TO COMPLETE A FORM FROM THE OFFICE THAT COLLECTS PERSONAL**
29 **INFORMATION AND THE TYPE OF FORMS THAT ARE REQUIRED TO BE SUBMITTED;**

30 **(VI) THE NUMBER OF APPLICANTS AND EMPLOYEES THAT ARE**
31 **REQUIRED TO COMMUNICATE WITH THE OFFICE REGARDING A PERSONNEL**

1 **DECISION; AND**

2 **(VII) A STATEMENT THAT THE OFFICE IS IN COMPLIANCE WITH**
3 **THIS SECTION.**

4 **(G) (1) THE OFFICE OF THE ATTORNEY GENERAL SHALL OPERATE OR**
5 **PROVIDE FOR A HOTLINE OR AN E-MAIL ADDRESS TO RECEIVE AND RECORD**
6 **INFORMATION ABOUT ALLEGED VIOLATIONS OF THIS SECTION.**

7 **(2) THE OFFICE OF THE ATTORNEY GENERAL MAY CONTACT THE**
8 **COMPLAINANT TO GATHER ADDITIONAL INFORMATION.**

9 **(3) (I) ON OR BEFORE DECEMBER 1 EACH YEAR, THE OFFICE OF**
10 **THE ATTORNEY GENERAL SHALL, IN ACCORDANCE WITH § 2-1246 OF THIS ARTICLE,**
11 **SUBMIT A REPORT TO THE JOINT COMMITTEE ON FAIR PRACTICES AND STATE**
12 **PERSONNEL OVERSIGHT ON, IN AGGREGATED OR ANONYMOUS FORM, THE NUMBER**
13 **OF COMPLAINTS RECEIVED EACH YEAR.**

14 **(II) THE REPORT MAY INCLUDE A RESPONSE FROM THE OFFICE**
15 **TO EACH COMPLAINT.**

16 **Article – State Personnel and Pensions**

17 4-302.

18 (a) This section does not apply to the University System of Maryland.

19 (b) The Secretary shall submit to the Governor and, subject to § 2-1246 of the
20 State Government Article, to the General Assembly **AND THE JOINT COMMITTEE ON**
21 **FAIR PRACTICES AND STATE PERSONNEL OVERSIGHT** an annual report covering all
22 units of the Executive Branch of State government, including a unit with an independent
23 personnel system, for each fiscal year that:

24 (1) provides information about:

25 (i) employee performance and efficiency;

26 (ii) use of leave by State employees;

27 (iii) incentive awards;

28 (iv) whistleblower proceedings;

29 (v) each denial of a pay increase, each disciplinary suspension, each
30 grievance, each involuntary demotion, and each rejection on probation; and

1 (vi) a summary of the equal employment opportunity report required
2 under § 5–204 of this article, including hiring, firing, promotions, terminations, and
3 rejections on probation, by race, sex, and age;

4 (2) provides statistics and rankings that compare minority group State
5 employees to all State employees in all job categories;

6 (3) provides information about part–time work and, in the Secretary’s
7 discretion, alternate work schedules, work days, and work locations;

8 (4) provides information on the total number of positions designated as
9 special appointments, including special appointments designated with regard to political
10 affiliation, belief, or opinion, **INCLUDING:**

11 **(I) THE POSITION CLASSIFICATIONS AND DESCRIPTIONS OF**
12 **THE SPECIAL APPOINTMENT POSITIONS;**

13 **(II) THE GRADES AND STEPS OF THE SPECIAL APPOINTMENT**
14 **POSITIONS; AND**

15 **(III) AGGREGATE DEMOGRAPHIC DETAILS OF THE SPECIAL**
16 **APPOINTMENT POSITIONS; and**

17 (5) makes any recommendations about conditions in State employment
18 that the Secretary considers advisable.

19 (c) The report required by this section shall be submitted on or before January 1
20 following the fiscal year to which it applies.

21 7–102.

22 (a) (1) **(I) [Each] SUBJECT TO SUBPARAGRAPH (II) OF THIS**
23 **PARAGRAPH, EACH** employee in the skilled service, professional service, and management
24 service, including special appointments in each classification of each of those services, shall
25 be provided with a written position description which describes the essential duties and
26 responsibilities the employee is expected to perform and the standards for satisfactory
27 performance on a form approved by the Secretary.

28 **(II) FOR SPECIAL APPOINTMENTS, THE WRITTEN POSITION**
29 **DESCRIPTION UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL INCLUDE A**
30 **NOTICE THAT THE SPECIAL APPOINTMENT POSITION IS AN AT–WILL POSITION THAT**
31 **IS NOT AFFORDED THE MERIT PROTECTIONS OF OTHER POSITIONS IN THE SKILLED**
32 **AND PROFESSIONAL SERVICES.**

33 (2) A successful applicant for a position in the skilled service, professional

1 service, or management service, **INCLUDING SPECIAL APPOINTMENTS**, shall be provided
2 with a position description for review before accepting appointment to the position.

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
4 1, 2019.