

# SENATE BILL 85

R2

3lr0050

(PRE-FILED)

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By: **Chair, Finance Committee (By Request – Departmental – Transportation)**

Requested: November 15, 2012

Introduced and read first time: January 9, 2013

Assigned to: Finance

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Committee Report: Favorable

Senate action: Adopted

Read second time: January 17, 2013

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

1 AN ACT concerning

2 **Maryland Port Commission – Management Personnel Appointments –**  
3 **Operating and Managing Port Facilities**

4 FOR the purpose of authorizing the Maryland Port Commission to determine the  
5 qualifications for appointment and the compensation and benefits for up to a  
6 certain number of management personnel positions required to operate and  
7 manage State-owned port facilities; establishing that those employees are State  
8 employees; recodifying certain provisions of law relating to management  
9 personnel employees performing services for certain private operating  
10 companies; making conforming and clarifying changes; and generally relating to  
11 management personnel and the Maryland Port Commission.

12 BY repealing and reenacting, with amendments,  
13 Article – Transportation  
14 Section 6–201.2 and 6–204(q)  
15 Annotated Code of Maryland  
16 (2008 Replacement Volume and 2012 Supplement)

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

19 **Article – Transportation**

20 6–201.2.

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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           **(A) (1) THE COMMISSION MAY APPOINT UP TO A TOTAL OF 12**  
2 **MANAGEMENT PERSONNEL EMPLOYEES TO OPERATE AND MANAGE ALL**  
3 **STATE-OWNED PORT FACILITIES OR TO PERFORM SERVICES FOR PRIVATE**  
4 **OPERATING COMPANIES CREATED UNDER § 6-204(Q) OF THIS SUBTITLE.**

5           **(2) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE**  
6 **COMMISSION MAY DETERMINE THE QUALIFICATIONS AND APPOINTMENT, AS**  
7 **WELL AS COMPENSATION AND LEAVE, FOR EMPLOYEES APPOINTED UNDER THIS**  
8 **SUBSECTION.**

9           **(3) AT LEAST 10 DAYS BEFORE THE EFFECTIVE DATE OF THE**  
10 **CHANGE, THE COMMISSION SHALL SUBMIT TO THE SECRETARY OF BUDGET**  
11 **AND MANAGEMENT EACH CHANGE TO THE SALARIES OF THOSE EMPLOYEES**  
12 **THAT INVOLVES INCREASES IN SALARY RANGES OTHER THAN THOSE**  
13 **ASSOCIATED WITH GENERAL SALARY INCREASES APPROVED BY THE GENERAL**  
14 **ASSEMBLY.**

15           **(4) THE SECRETARY OF BUDGET AND MANAGEMENT SHALL:**

16                   **(I) REVIEW THE PROPOSED CHANGES; AND**

17                   **(II) WITHIN 10 DAYS OF RECEIPT OF THE PROPOSED**  
18 **CHANGES, ADVISE THE COMMISSION WHETHER THE CHANGES WOULD HAVE AN**  
19 **ADVERSE EFFECT ON SPECIAL FUND EXPENDITURES.**

20           **(5) FAILURE OF THE SECRETARY OF BUDGET AND MANAGEMENT**  
21 **TO RESPOND IN A TIMELY MANNER IS DEEMED TO BE A STATEMENT THAT THE**  
22 **CHANGE WILL HAVE NO ADVERSE EFFECT.**

23           **(6) EMPLOYEES APPOINTED UNDER THIS SUBSECTION ARE**  
24 **STATE EMPLOYEES AND SHALL BE ENTITLED TO PARTICIPATE IN THE**  
25 **RETIREMENT AND PENSION SYSTEMS FOR EMPLOYEES OF THE STATE OF**  
26 **MARYLAND AUTHORIZED UNDER DIVISION II OF THE STATE PERSONNEL AND**  
27 **PENSIONS ARTICLE.**

28           **(7) THE BUDGET SUBMITTED BY THE GOVERNOR TO THE**  
29 **GENERAL ASSEMBLY SHALL INCLUDE PERSONNEL DETAIL FOR THE**  
30 **MANAGEMENT PERSONNEL POSITIONS UNDER THIS SUBSECTION IN THE FORM**  
31 **AND MANNER PROVIDED FOR AN AGENCY IN THE STATE PERSONNEL**  
32 **MANAGEMENT SYSTEM.**

1           **(8) SUBJECT TO § 2–1246 OF THE STATE GOVERNMENT ARTICLE,**  
2 **ON OR BEFORE DECEMBER 1 OF EACH YEAR, THE COMMISSION SHALL REPORT**  
3 **TO THE GOVERNOR AND THE LEGISLATIVE POLICY COMMITTEE OF THE**  
4 **GENERAL ASSEMBLY ON ACTIONS TAKEN BY THE COMMISSION UNDER THIS**  
5 **SUBSECTION DURING THE PREVIOUS FISCAL YEAR WITH REGARD TO**  
6 **INDIVIDUALS SUBJECT TO THIS SUBSECTION.**

7           **[(a) (B) (1) (I)]** Subject to approval of the Administration’s budget by  
8 the General Assembly as provided in § 3–216 of this article and subject to State fiscal  
9 procedures, including those governing budgeting, accounting, and auditing, the  
10 Commission may adopt regulations establishing procedures for the approval and  
11 control of Administration expenditures.

12           **[(2) (II)]** The Commission shall present regulations proposed under  
13 this subsection to the Board of Public Works for approval.

14           **[(b) (2)]** The Commission may adopt any other regulations necessary to  
15 carry out the provisions of this title.

16           (c) (1) Subject to § 2–1246 of the State Government Article, the  
17 Commission shall report by January 15 of each year to the General Assembly on the  
18 activities of the Port Commission during the previous year.

19           (2) The report shall include a review of the port’s competitive position  
20 during the previous year and any recommendations of the Commission for future  
21 changes in legislation, capital funding, or operational flexibility for consideration by  
22 the General Assembly.

23           (3) The report shall also include any substantive changes in its  
24 regulations for procurement and personnel.

25 6–204.

26           (q) (1) The Administration, with the approval of the Commission, may  
27 create private operating companies for the purpose of operating public port facilities.

28           **[(2) (i)]** The Commission may appoint up to a total of 12  
29 management personnel employees to perform services for all private operating  
30 companies created under this subsection.

31                   (ii) Notwithstanding any other provision of law, the Commission  
32 may determine the qualifications and appointment, as well as compensation and leave,  
33 for employees appointed under this subsection.

34                   (iii) At least 10 days before the effective date of the change, the  
35 Commission shall submit to the Secretary of Budget and Management each change to

1 the salaries of these employees that involves increases in salary ranges other than  
2 those associated with general salary increases approved by the General Assembly.

3 (iv) The Secretary of Budget and Management shall:

4 1. Review the proposed changes; and

5 2. Within 10 days of receipt of the proposed changes,  
6 advise the Commission whether the changes would have an adverse effect on special  
7 fund expenditures.

8 (v) Failure of the Secretary of Budget and Management to  
9 respond in a timely manner is deemed to be a statement that the change will have no  
10 adverse effect.

11 (vi) Employees appointed under this subsection are State  
12 employees and shall be entitled to participate in the retirement and pension systems  
13 for employees of the State of Maryland authorized under Division II of the State  
14 Personnel and Pensions Article.

15 (vii) On or before December 1 of each year, the Commission shall  
16 report to the Governor and the Legislative Policy Committee of the General Assembly  
17 on actions taken by the Commission under this subsection during the previous fiscal  
18 year with regard to individuals subject to this subsection.

19 (3) The budget submitted by the Governor to the General Assembly  
20 shall include personnel detail for the private operating companies in the form and  
21 manner provided for an agency in the State Personnel Management System.]

22 [(4)] (2) Other than employees appointed by the Commission under  
23 [paragraph (2) of this subsection,] § 6-201.2(A) OF THIS SUBTITLE, employees of a  
24 private operating company created under this subsection are not State employees.

25 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
26 October 1, 2013.

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.