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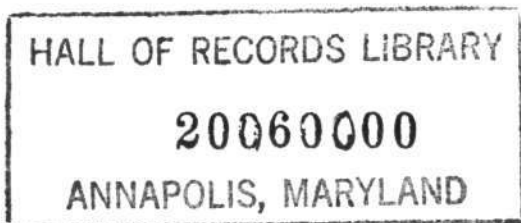
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THE MARYLAND STATE CONSTITUTION

A Reference Guide

Dan Friedman

Foreword by
Judge Robert L. Karwacki



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session and introduced to the General Assembly as a joint resolution on the fifteenth day. MD. CONST., Art. II, §21A(c) and (d). The Commission may recommend no change or an increase in salary, but not a decrease. MD. CONST., Art. II, §21A(f). If the Commission fails to make a recommendation, or makes its recommendation late, there can be no salary change. MD. CONST., Art. II, §21A(d) and (g). Once the joint resolution is introduced the General Assembly may amend the resolution but only within a limited range. The General Assembly may not increase the proposed salaries, rather it may only reduce,⁸⁵ but it may not reduce below the salary of the current incumbents.⁸⁶ Moreover, the joint resolution must be approved within fifty days of its introduction. MD. CONST., Art. II, §21A(d). If the General Assembly adopts a joint resolution within these parameters, that becomes the salary for the Governor and Lieutenant Governor beginning the next term. MD. CONST., Art. II, §21A(f). If the General Assembly fails to adopt a joint resolution within those parameters, the recommendation of the Governor's Salary Commission becomes effective. MD. CONST., Art. II, §21A(d). The current salaries for the Governor and Lieutenant Governor are codified at MD. STATE GOV'T CODE ANN., §3-102.

SECTION 22

Appointment and term of Secretary of State; compensation. A Secretary of State shall be appointed by the Governor, by and with the advice and consent of the Senate, who shall continue in office, unless sooner removed by the Governor, [un]till the end of the official term of the Governor from whom he received his appointment, and receive such annual salary as the General Assembly may from time to time by law prescribe.

Constitutional amendments adopted in 1837 reapportioned the legislature and made the executive branch more democratically accountable. The same amendments are also responsible for the creation of the position of Secretary of State of Maryland.⁸⁷ The two provisions (§§22, 23) governing the Secretary of State took on their current form and position in the 1851 constitution⁸⁸ and, except for the deletion of express salary provisions, remain largely unchanged today.

The Secretary of State is appointed by the Governor with the advice and consent of the State Senate. The method of removal of a Secretary of State remains an open question in Maryland. Although the text of §22 suggests that the Secretary of State may be removed by the action of the Governor, the Court of Appeals has suggested that removal must comport with MD. CONST., Art. II, §15.⁸⁹ The term of the Secretary of State ends concurrently with the "official term" of the appointing Governor. This language has not been interpreted by the appellate courts but suggests a different result than the general rule that public officials serve not only to the end of their term but "until their successors shall qualify."

SECTION 23

Duties of Secretary of State. The Secretary of State shall carefully keep and preserve a Record of all official acts and proceedings, which may at all times be inspected by a committee of either Branch of the Legislature; and he shall perform such other duties as may be prescribed by Law, or as may properly belong to his office, together with all clerical duty belonging to the Executive Department.

The Secretary of State serves as the clerk and secretary for the Governor and executive branch of government. The Secretary of State's responsibility for keeping and preserving the record is largely fulfilled by publication of the *Code of Maryland Regulations* ("COMAR") and its temporary supplement, the *Maryland Register*.⁹⁰ Historically, the Secretary of State also kept a log of all legislative bills presented to the Governor for approval.⁹¹ The other duties that have been assigned to the Secretary of State over the history of the office are a strange and largely incoherent mishmash, including: (1) custody of the Great Seal of the state⁹² and various duties related to the state flag;⁹³ (2) receipt of petitions for referendum;⁹⁴ (3) supervision and registration of charitable organizations;⁹⁵ (4) registration of condominiums;⁹⁶ and (5) processing applications for notaries public.⁹⁷

SECTION 24

Reorganization of executive branch. The Governor may make changes in the organization of the Executive Branch of State Government, including the establishment or abolition of departments, offices, agencies, and instrumentalities, and the reallocation or reassignment of functions, powers, and duties among the departments, offices, agencies, and instrumentalities of the Executive Branch. Where these changes are inconsistent with existing law, or create new governmental programs they shall be set forth in executive orders in statutory form which shall be submitted to the General Assembly within the first ten days of a regular session. An executive order that has been submitted shall become effective and have the force of law on the date designated in the Order unless specifically disapproved, within fifty days after submission, by a resolution of disapproval concurred in by a majority vote of all members of either House of the General Assembly. No executive order reorganizing the Executive Branch shall abolish any office established by this Constitution or shall change the powers and duties delegated to particular officers or departments by this Constitution.

Article II, §24 is an entirely new section of the Maryland Constitution added by the voters in 1970. Previously, the organization of the executive branch had been under the exclusive control of the legislative branch.⁹⁸ The 1967 Maryland constitutional convention, as part of a series of proposals aimed at strengthening the Governor's control of the executive branch, recommended giving the Governor