

HOUSE BILL 489

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2002 Regular Session
(2r0689)

ENROLLED BILL

-- *Economic Matters/Education, Health, and Environmental Affairs* --

Introduced by **Chairman, Economic Matters Committee**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

Speaker.

CHAPTER 523

1 AN ACT concerning

2 **State Board of Pilots - Sunset Extension and Program Evaluation**

3 FOR the purpose of continuing the State Board of Pilots in accordance with the
4 provisions of the Maryland Program Evaluation Act (Sunset Law) by extending
5 to a certain date the termination provisions relating to statutory and regulatory
6 authority of the Board; requiring the Board to pay certain moneys into the
7 General Fund of the State; providing that compensation of the Board and
8 reimbursement for expenses shall be as provided in the State budget; making
9 provisions of law that apply to certain inactive pilots apply to certain
10 permanently disabled pilots; repealing provisions of law that refer to
11 permanently disabled pilots as an independent category of pilot; requiring the
12 Association of Maryland Pilots to distribute certain payments to inactive pilots
13 on behalf of the Board; altering a provision that requires the Board to make
14 certain payments; ~~requiring the Association to consider certain tax implications~~
15 ~~when making certain payments~~; altering the oversight of the Maintenance and
16 Replacement Fund by requiring the Association to maintain the Fund instead of
17 the Board; requiring the Association to obtain written approval from the Board

1 for certain expenditures; requiring the Association to maintain a certain fund
2 balance; providing a certain exception to the requirement to maintain a certain
3 fund balance; requiring the Association to submit to the Board certain financial
4 audits of certain payments; requiring the Board to maintain copies of financial
5 audits; requiring that an evaluation of the Board and the statutes and
6 regulations that relate to them be performed on or before a certain date;
7 requiring the Board to report to certain committees on or before a certain date;
8 and generally relating to the State Board of Pilots.

9 BY repealing

10 Article - Business Occupations and Professions
11 Section 11-505
12 Annotated Code of Maryland
13 (2000 Replacement Volume and 2001 Supplement)

14 BY renumbering

15 Article - Business Occupations and Professions
16 Section 11-506 through 11-508, respectively
17 to be Section 11-505 through 11-507, respectively
18 Annotated Code of Maryland
19 (2000 Replacement Volume and 2001 Supplement)

20 BY repealing and reenacting, with amendments,

21 Article - Business Occupations and Professions
22 Section 11-206, 11-504, and 11-802
23 Annotated Code of Maryland
24 (2000 Replacement Volume and 2001 Supplement)

25 BY adding to

26 Article - Business Occupations and Professions
27 Section 11-508
28 Annotated Code of Maryland
29 (2000 Replacement Volume and 2001 Supplement)

30 BY repealing and reenacting, with amendments,

31 Article - Business Occupations and Professions
32 Section 11-505 and 11-506
33 Annotated Code of Maryland
34 (2000 Replacement Volume and 2001 Supplement)
35 (As enacted by Section 2 of this Act)

36 BY repealing and reenacting, without amendments,

37 Article - State Government
38 Section 8-403(a)

1 Annotated Code of Maryland
2 (1999 Replacement Volume and 2001 Supplement)

3 BY repealing and reenacting, with amendments,
4 Article - State Government
5 Section 8-403(b)(51)
6 Annotated Code of Maryland
7 (1999 Replacement Volume and 2001 Supplement)

8 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
9 MARYLAND, That Section(s) 11-505 of Article - Business Occupations and
10 Professions of the Annotated Code of Maryland be repealed.

11 SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 11-506
12 through 11-508, respectively, of Article - Business Occupations and Professions of the
13 Annotated Code of Maryland be renumbered to be Section(s) 11-505 through 11-507,
14 respectively.

15 SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland
16 read as follows:

17 **Article - Business Occupations and Professions**

18 11-206.

19 (a) The Board shall receive all fees and other charges collectible under §§
20 11-406 and 11-408 of this title.

21 (b) EXCEPT AS OTHERWISE PROVIDED BY LAW, THE BOARD SHALL PAY ALL
22 MONEYS COLLECTED UNDER THIS TITLE INTO THE GENERAL FUND OF THE STATE.

23 (C) The compensation of the Board [shall be payable only out of the money
24 that the Board collects] AND REIMBURSEMENT FOR EXPENSES UNDER THE
25 STANDARD STATE TRAVEL REGULATIONS SHALL BE AS PROVIDED IN THE STATE
26 BUDGET.

27 11-504.

28 (a) A pilot is eligible for payments as an inactive pilot under [§ 11-506] §
29 11-505 of this subtitle if the pilot:

30 (1) (I) chooses to be placed on the list of inactive pilots maintained by
31 the Association; and

32 [(2)] (II) has been, for at least 25 years:

33 [(i)] 1. a member in good standing of the Association; and

1 [(ii)] 2. licensed by the Board to provide pilotage for vessels of
2 unlimited draft; OR

3 (2) (I) 1. HAS BEEN CERTIFIED BY TWO PHYSICIANS CHOSEN BY
4 THE BOARD TO BE PERMANENTLY INCAPABLE OF PROVIDING PILOTAGE; OR

5 2. HAS HAD A FEDERAL OR STATE PILOT'S LICENSE
6 REVOKED FOR PHYSICAL DISABILITY; AND

7 (II) BEFORE BECOMING PERMANENTLY DISABLED, THE PILOT WAS:

8 1. A MEMBER IN GOOD STANDING OF THE ASSOCIATION;
9 AND

10 2. LICENSED BY THE BOARD TO PROVIDE PILOTAGE FOR
11 VESSELS OF ANY DRAFT.

12 (b) A pilot is eligible for reduced payments as an inactive pilot under [§
13 11-506] § 11-505 of this subtitle if the pilot:

14 (1) chooses to be placed on the list of inactive pilots maintained by the
15 Association; and

16 (2) has been, for at least 20 years:

17 (i) a member in good standing of the Association; and

18 (ii) licensed by the Board to provide pilotage for vessels of unlimited
19 draft.

20 (C) ELIGIBILITY FOR PAYMENTS AS AN INACTIVE PILOT SHALL CEASE IF:

21 (1) A PILOT WHO WAS DECLARED PERMANENTLY INCAPABLE OF
22 PROVIDING PILOTAGE BECOMES CAPABLE OF PROVIDING PILOTAGE; OR

23 (2) A PILOT WHO HAD A FEDERAL OR STATE PILOT'S LICENSE REVOKED
24 FOR PHYSICAL DISABILITY HAS THE LICENSE REISSUED.

25 11-505.

26 (a) Each month, the Association shall distribute the pilotage fees that the
27 Association collects in the following order:

28 (1) within 10 days after the close of each month, the Association shall
29 [pay]:

30 (I) ACCOUNT to the Board for that month [an] FOR THE amount
31 determined under subsections [(b), (c), and (d)] (B) AND (C) of this section for
32 distribution to the pilots who, at the beginning of that month, were eligible for
33 payments as inactive ~~for permanently disabled pilots~~; and

1 (II) DISTRIBUTE ~~THE~~ THOSE MONEYS ON BEHALF OF THE BOARD;
2 AND

3 (2) the balance of the pilotage fees collected shall be:

4 (i) first, used by the Association to pay its expenses;

5 (ii) second, paid to the Maintenance and Replacement Fund under
6 [§ 11-507] § 11-506 of this subtitle; and

7 (iii) finally, in accordance with the bylaws of the Association, paid to
8 the regularly working licensed pilots who are members in good standing of the
9 Association.

10 (b) The amount to be [paid] DISTRIBUTED by the Association [to] ON
11 BEHALF OF the Board [for distribution] to eligible inactive pilots ~~who for at least 25~~
12 ~~years have been members in good standing of the Association and licensed by the~~
13 ~~Board to provide pilotage for vessels of unlimited draft~~ DESCRIBED UNDER § 11-504(A)
14 OF THIS SUBTITLE shall be computed by:

15 (1) determining the greater of:

16 (i) \$200; or

17 (ii) 40% of the share payable under this subtitle for the month for
18 which the payment is to be made to a regularly working licensed pilot; and

19 (2) multiplying the figure determined under item (1) of this subsection
20 by the number of pilots in the Association who, at the beginning of the month for
21 which the payment is to be made, were eligible for payments as inactive pilots under
22 this subsection.

23 (c) The amount to be [paid] DISTRIBUTED by the Association [to] ON
24 BEHALF OF the Board [for distribution] to eligible inactive pilots ~~who become~~
25 ~~inactive with at least 20 years but less than 25 years as members in good standing of~~
26 ~~the Association and licensed by the Board to provide pilotage for vessels of unlimited~~
27 ~~draft~~ DESCRIBED UNDER § 11-504(B) OF THIS SUBTITLE shall be computed as follows:

28 (1) for each pilot determining the greater of:

29 (i) \$200; or

30 (ii) 1. 32% of the share payable under this subtitle for the month
31 for which the payment is to be made to a regularly working licensed pilot; and

32 2. 1.6% of the share payable under this subtitle for the
33 month for which the payment is to be made to a regularly working licensed pilot in
34 addition for each year of service in excess of 20 years and up to 25 years; and

35 (2) ~~totalling~~ TOTALING the sums determined under item (1) of this
36 subsection for each pilot in the Association who, at the beginning of the month for

1 which the payment is to be made, was eligible for payment as an inactive pilot under
2 this subsection.

3 (d) ~~[The amount to be paid by the Association to the Board for distribution to~~
4 ~~permanently disabled pilots shall be computed by:~~

5 (1) ~~determining the greater of:~~

6 (i) ~~\$200; or~~

7 (ii) ~~40% of the share payable under this subtitle for the month for~~
8 ~~which the payment is to be made to a regularly working licensed pilot; and~~

9 (2) ~~multiplying the figure determined under item (1) of this subsection~~
10 ~~by the number of pilots in the Association who, at the beginning of the month for~~
11 ~~which the payment is to be made, were eligible for payments as permanently disabled~~
12 ~~pilots.~~

13 (e) ~~Within 10 days after the Board receives the amounts paid under~~
14 ~~subsections (b), (c), or (d) of this section, the Board] THE ASSOCIATION shall~~
15 ~~distribute [those] ON BEHALF OF THE BOARD THE amounts IDENTIFIED UNDER~~
16 ~~SUBSECTIONS (B) AND (C) OF THIS SECTION:~~

17 (1) ~~equally to those pilots who, at the beginning of the month for which~~
18 ~~the payment is made, were eligible for payments as inactive [or permanently disabled~~
19 ~~pilots under subsections (b) and (d)] PILOTS UNDER SUBSECTION (B) of this section;~~
20 ~~and~~

21 (2) ~~in the amounts as adjusted in accordance with subsection (c) of this~~
22 ~~section to inactive pilots with at least 20 years but less than 25 years as a member in~~
23 ~~good standing of the Association and licensed by the Board to provide pilotage for~~
24 ~~vessels of unlimited draft.~~

25 (E) ~~THE ASSOCIATION SHALL CARRY OUT THE PROVISIONS OF THIS SECTION~~
26 ~~IN A MANNER THAT MINIMIZES NEGATIVE TAX IMPLICATIONS FOR THE INDIVIDUAL~~
27 ~~PILOTS.~~

28 11-506.

29 (a) THE BOARD OF SUPERVISORS OF THE ASSOCIATION SHALL MAINTAIN A
30 MAINTENANCE AND REPLACEMENT FUND FOR THE REPLACEMENT AND REPAIR OF
31 THE MAJOR EQUIPMENT OF THE ASSOCIATION.

32 (B) The State Board of Pilots shall determine a percentage of the pilotage fees
33 collected by the Association to be set aside in [a fund] THE FUND [for the
34 replacement and repair of the major equipment of the Association].

35 (C) THE BOARD OF SUPERVISORS OF THE ASSOCIATION SHALL OBTAIN
36 WRITTEN APPROVAL FROM THE STATE BOARD OF PILOTS FOR ANY EXPENDITURES
37 FROM THE FUND.

1 (D) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE
2 BALANCE IN THE FUND SHALL REMAIN AT OR ABOVE \$500,000.

3 (2) (I) THE BALANCE OF THE FUND MAY FALL BELOW \$500,000 FOR
4 EXPENDITURES AUTHORIZED BY THE BOARD.

5 (II) THE BALANCE OF THE FUND MAY NOT REMAIN BELOW \$500,000
6 FOR MORE THAN 2 10 CONSECUTIVE YEARS.

7 (III) AT NO TIME SHALL THE BALANCE OF THE FUND FALL BELOW
8 \$100,000.

9 [(b)] (E) [(1)] The Board of Supervisors of the Association shall deduct the
10 percentage set by the State Board of Pilots from the pilotage fees collected by the
11 Association and pay that amount to the State Board of Pilots.

12 (2)] The [State Board of Pilots] BOARD OF SUPERVISORS OF THE
13 ASSOCIATION shall deposit the [amount received under this subsection] MONEYS
14 AUTHORIZED UNDER SUBSECTION ~~(A)~~ (B) OF THIS SECTION into the Maintenance and
15 Replacement Fund.

16 [(c)] (F) (1) The [State Board of Pilots] BOARD OF SUPERVISORS OF THE
17 ASSOCIATION shall hold the Maintenance and Replacement Fund in trust [for the
18 Association].

19 (2) The [State Board of Pilots] ASSOCIATION:

20 (i) may invest or hold the Fund in any manner that the [Board]
21 ASSOCIATION finds desirable, in light of the nature and purpose of the Fund;

22 (ii) may place control and management of the Fund, or a part of the
23 Fund, with a bank or trust company that is subject to State or federal regulation; and

24 (iii) is not limited to investments in property that has been
25 designated, under any law of the State, as strictly suitable for investment of a trust
26 fund.

27 [(d)] (G) Assets held in trust under this section are not subject to attachment
28 or execution.

29 11-508.

30 (A) THE ASSOCIATION SHALL SUBMIT TO THE BOARD:

31 (1) AN ANNUAL FINANCIAL AUDIT OF PAYMENTS TO PILOTS UNDER §
32 11-505 OF THIS SUBTITLE; AND

33 (2) AN ANNUAL FINANCIAL AUDIT OF THE MAINTENANCE AND
34 REPLACEMENT FUND UNDER § 11-506 OF THIS SUBTITLE.

1 (B) THE BOARD SHALL KEEP COPIES OF THE FINANCIAL AUDITS RECEIVED
2 UNDER SUBSECTION (A) OF THIS SECTION.

3 11-802.

4 Subject to the evaluation and reestablishment provisions of the Maryland
5 Program Evaluation Act, this title and all regulations adopted under this title shall
6 terminate and be of no effect after July 1, [2003] 2013.

7 **Article - State Government**

8 8-403.

9 (a) On or before December 15 of the 2nd year before the evaluation date of a
10 governmental activity or unit, the Legislative Policy Committee, based on a
11 preliminary evaluation, may waive as unnecessary the evaluation required under this
12 section.

13 (b) Except as otherwise provided in subsection (a) of this section, on or before
14 the evaluation date for the following governmental activities or units, an evaluation
15 shall be made of the following governmental activities or units and the statutes and
16 regulations that relate to the governmental activities or units:

17 (51) Pilots, State Board of (§ 11-201 of the Business Occupations and
18 Professions Article: July 1, [2002] 2012);

19 SECTION 4. AND BE IT FURTHER ENACTED, That the State Board of
20 Pilots shall report to the Senate Education, Health, and Environmental Affairs
21 Committee and the House Economic Matters Committee on or before October 1, 2002,
22 in accordance with § 2-1246 of the State Government Article, on the implementation
23 of the recommendations of the Department of Legislative Services contained in the
24 sunset evaluation report dated October 2001. This report shall include:

25 (a) The development of a methodology for determining the appropriate
26 number of licensed pilots to ensure reliable pilotage service, including:

27 (1) the source of future Port of Baltimore vessel call information;

28 (2) the future pilot complement; and

29 (3) the future actions to be taken by the Board to monitor this
30 information; and

31 (b) The actions the Board intends to take regarding oversight of pilot work
32 rules, including hours of service and required rest periods; and

33 (c) The actions the Board has taken to better and more accurately maintain
34 information important to the functions of the Board, including such information as:

35 (1) incidents by type;

- 1 (2) resolution of incidents;
- 2 (3) number and type of licenses issued;
- 3 (4) licenses revoked or suspended;
- 4 (5) license terms;
- 5 (6) applications received; and
- 6 (7) pilot continuing education credits.

7 SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take
8 effect July 1, 2002.