

HOUSE BILL 517

M3, P2

4lr0126

By: **Chair, Environmental Matters Committee (By Request – Departmental – Environment)**

Introduced and read first time: January 29, 2014

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Board of Public Works – State Wetlands Licenses – Best Interest of the State**

3 FOR the purpose of requiring the Board of Public Works to operate in a certain
4 capacity and to consider certain factors when determining whether to issue a
5 certain license on State wetlands; authorizing the Board of Public Works to
6 adopt regulations to implement certain provisions; establishing that the State
7 owns and holds State wetlands for certain reasons; establishing that the Board
8 of Public Works has certain rights and discretion when issuing a certain license;
9 establishing that certain provisions of law do not apply to the issuance of a
10 certain license by the Board of Public Works; providing for the application of
11 this Act; and generally relating to State wetlands licenses.

12 BY repealing and reenacting, with amendments,
13 Article – Environment
14 Section 16–102 and 16–202(g)(1)
15 Annotated Code of Maryland
16 (2007 Replacement Volume and 2013 Supplement)

17 BY adding to
18 Article – State Finance and Procurement
19 Section 10–204.1
20 Annotated Code of Maryland
21 (2009 Replacement Volume and 2013 Supplement)

22 BY repealing and reenacting, with amendments,
23 Article – State Finance and Procurement
24 Section 10–401
25 Annotated Code of Maryland
26 (2009 Replacement Volume and 2013 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 **Article – Environment**

4 16–102.

5 (a) In many areas of the State much of the wetlands have been lost or
6 despoiled by unregulated dredging, dumping, filling, and like activities, and the
7 remaining wetlands are in jeopardy of being lost or despoiled by these and other
8 activities. The loss or despoliation:

9 (1) Will affect adversely, if not eliminate entirely, the value of the
10 wetlands as a source of nutrient to finfish, crustacea, and shellfish of significant
11 economic value;

12 (2) Will destroy the wetlands as a habitat for plants and animals of
13 significant economic value and eliminate or substantially reduce marine commerce,
14 recreation, and aesthetic enjoyment;

15 (3) In most cases, will affect the natural ability of tidal wetlands to
16 reduce flood damage and affect adversely the public health and welfare; and

17 (4) Will reduce substantially the capacity of the wetlands to absorb silt
18 and result in increased silting of channel and harbor areas to the detriment of free
19 navigation.

20 (b) It is the public policy of the State, taking into account varying ecological,
21 economic, developmental, recreational, and aesthetic values, to preserve the wetlands
22 and prevent their despoliation and destruction.

23 **(C) IN DECIDING WHETHER TO ISSUE A LICENSE UNDER § 16–104(B) OR**
24 **§ 16–107 OF THIS SUBTITLE OR § 16–202 OF THIS TITLE, THE BOARD SHALL:**

25 **(1) OPERATE IN ITS PROPRIETARY CAPACITY ESTABLISHED BY §**
26 **10–204.1 OF THE STATE FINANCE AND PROCUREMENT ARTICLE; AND**

27 **(2) ACT IN THE BEST INTEREST OF THE STATE, TAKING INTO**
28 **ACCOUNT ANY FACTOR THE BOARD CONSIDERS RELEVANT INCLUDING THE**
29 **VARYING ECOLOGICAL, ECONOMIC, DEVELOPMENTAL, RECREATIONAL, AND**
30 **AESTHETIC ADVANTAGES AND DISADVANTAGES EACH PROJECT PRESENTS.**

31 **(D) THE BOARD MAY ADOPT REGULATIONS TO CARRY OUT THE**
32 **PROVISIONS OF THIS SECTION.**

33 16–202.

1 (g) (1) Upon receipt of a report by the Secretary, [the Board shall decide if
2 issuance of the license is in the best interest of the State, taking into account the
3 varying ecological, economic, developmental, recreational, and aesthetic values each
4 application presents. If] IF the Board decides to issue the license, the issuance of the
5 license shall be for consideration and on terms and conditions the Board determines.
6 Every license shall be in writing.

7 **Article – State Finance and Procurement**

8 **10-204.1.**

9 (A) **THE STATE OWNS STATE WETLANDS AND HOLDS THEM IN TRUST**
10 **FOR THE BENEFIT OF THE PUBLIC.**

11 (B) **SUBJECT TO TITLE 16 OF THE ENVIRONMENT ARTICLE, THE**
12 **BOARD MAY ISSUE LICENSES FOR ACTIVITIES IN STATE WETLANDS.**

13 (C) **IF THE BOARD ISSUES A LICENSE UNDER TITLE 16 OF THE**
14 **ENVIRONMENT ARTICLE FOR AN ACTIVITY IN STATE WETLANDS, THE BOARD**
15 **ENJOYS THE SAME PROPRIETARY RIGHTS AND DISCRETION OF ANY OTHER**
16 **PROPERTY OWNER IN DECIDING WHETHER TO GRANT TO ANOTHER AN**
17 **INTEREST IN THE OWNER'S PROPERTY.**

18 **10-401.**

19 (a) This subtitle applies only to land owned by the State as a result of the
20 relationship of the land to the waters of the State.

21 (b) This subtitle does not:

22 (1) affect the title to interests conveyed by the State before July 1,
23 1970, by a valid grant, lease, or patent or a grant confirmed by Article 5 of the
24 Maryland Declaration of Rights;

25 (2) prohibit the execution of a conveyance for which application was
26 made and approved by the Board before July 1, 1970;

27 (3) deprive any riparian owner or proprietor of any riparian rights,
28 privilege, or enjoyment that the owner or proprietor had before July 1, 1970; [or]

29 (4) affect §§ 3-101 and 3-102 of the Natural Resources Article of the
30 Code of Public Local Laws of Worcester County; OR

1 **(5) APPLY TO LICENSES ISSUED BY THE BOARD UNDER TITLE 16**
2 **OF THE ENVIRONMENT ARTICLE FOR ACTIVITIES ON STATE WETLANDS.**

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
4 construed to apply only prospectively and may not be applied or interpreted to have
5 any effect on or application to any State wetlands license application pending before
6 the Board of Public Works or the Department of the Environment before the effective
7 date of this Act.

8 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
9 July 1, 2014.