Vetoed Bills

and

Messages

from the

Governor of Maryland

A total of 39 bills were vetoed by the Governor following the 2018 Regular Session of the General Assembly. Of these vetoed bills, 19 originated in the Senate and 20 of them originated in the House of Delegates. Pursuant to the provisions of Article II, Section 17 of the Maryland Constitution, a vetoed bill will not be returned to the Legislature when a new General Assembly of Maryland has been elected and sworn since the passage of the vetoed bill. However, if the General Assembly convenes in Special Session prior to the election and swearing in of the newly elected members, the vetoed bills may be reconsidered in order to determine whether the veto is sustained or overridden.

2018 Session

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(Bill numbers in **bold** indicate policy vetoes. Bill numbers in *italics* indicate technical vetoes. All other vetoes are duplicative.)

List of House Bills Vetoed

(Bill numbers in **bold** indicate policy vetoes. Bill numbers in *italics* indicate technical vetoes. All other vetoes are duplicative.)

Vetoed Senate Bills and Messages

May 25, 2018

The Honorable Thomas V. Mike Miller, Jr.
President of the Senate
H–107 State House
Annapolis, MD 21401

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed Senate Bill 138 – *Environment – U.S. Climate Alliance – Membership.*

This bill requires the Governor to include Maryland as a member of the U.S. Climate Alliance by July 1, 2018, and stipulates that withdrawal from the alliance is conditional on statutory approval from the General Assembly. The bill also requires the Governor to report annually, beginning December 1, 2018, on the State's participation in the alliance, including any collaborations or partnerships among alliance members or external stakeholders; and, any policies or programs that the alliance has endorsed, undertaken, or considered.

House Bill 3, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign Senate Bill 138.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

Senate Bill 138

AN ACT concerning

Environment – U.S. Climate Alliance – Membership

FOR the purpose of requiring the Governor to include the State as a member of the U.S. Climate Alliance on or before a certain date; prohibiting the Governor from withdrawing the State from the U.S. Climate Alliance unless the General Assembly enacts a law approving the withdrawal; requiring the Governor to report to certain committees of the General Assembly on or before a certain date each year, beginning on or before a certain date; and generally relating to the U.S. Climate Alliance.

BY adding to
Article – Environment
Section 2–1401 to be under the new subtitle "Subtitle 14. U.S. Climate Alliance"
Annotated Code of Maryland

(2013 Replacement Volume and 2017 Supplement)

Preamble

WHEREAS, 195 countries signed the Paris Agreement on Climate Change, which aims to strengthen the global response to the threat of climate change, including by holding the increase in the global average temperate to be below 2 degrees Celsius above pre–industrial levels; and

WHEREAS, The United States signed the Paris Agreement; and

WHEREAS, President Donald J. Trump's Administration has announced its intent to withdraw the United States from the Paris Agreement; and

WHEREAS, The Healthy Air Act included Maryland in the Regional Greenhouse Gas Initiative; and

WHEREAS, The Greenhouse Gas Emissions Reduction Act requires Maryland to reduce emissions by 40% by 2030; and

WHEREAS, ~~Only international~~ International cooperation to reduce greenhouse gas emissions ~~can~~ is essential, along with regional, state, and local actions to mitigate climate impacts; and

WHEREAS, ~~14~~ 15 states and the Commonwealth of Puerto Rico have joined the U.S. Climate Alliance, committing to the goal of reducing greenhouse gas emissions consistent with the goals of the Paris Agreement;

WHEREAS, Maryland intends to share its insights, experiences, and strategies with the U.S. Climate Alliance in meeting and excelling beyond the requirements of the Paris Agreement and the U.S. Environmental Protection Agency's Clean Power Plan; and

WHEREAS, Governor Hogan has made it clear he disagreed with the President's decision to withdraw from the Paris Agreement; now, therefore,

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

Article – Environment

SUBTITLE 14. U.S. CLIMATE ALLIANCE.

2–1401.

(A) (1) ON OR BEFORE JULY 1, 2018, THE GOVERNOR SHALL INCLUDE THE STATE AS A MEMBER OF THE U.S. CLIMATE ALLIANCE.

(2) THE GOVERNOR MAY WITHDRAW THE STATE FROM THE U.S. CLIMATE ALLIANCE ONLY IF THE GENERAL ASSEMBLY ENACTS A LAW TO APPROVE THE WITHDRAWAL.

(B) ON OR BEFORE DECEMBER 1, 2018, AND ON OR BEFORE DECEMBER 1 EACH YEAR THEREAFTER, THE GOVERNOR SHALL REPORT TO THE SENATE EDUCATION, HEALTH, AND ENVIRONMENTAL AFFAIRS COMMITTEE AND THE HOUSE ENVIRONMENT AND TRANSPORTATION COMMITTEE, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, ON THE STATE'S PARTICIPATION IN THE U.S. CLIMATE ALLIANCE, INCLUDING:

(1) ANY COLLABORATIONS OR PARTNERSHIPS AMONG THE ALLIANCE MEMBERS OR EXTERNAL STAKEHOLDERS; AND

(2) ANY POLICIES OR PROGRAMS THAT THE ALLIANCE HAS ENDORSED, UNDERTAKEN, OR CONSIDERED.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2018.

May 25, 2018

The Honorable Thomas V. Mike Miller
President of the Senate
State House
Annapolis, Maryland 21401

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed Senate Bill 178 – *State Retirement and Pension System – Board of Trustees – Oath*.

This legislation was originally filed as technical fix that would codify the existing practice of how new members to Board of Trustees of the State Retirement and Pension System take their oath of office. Unfortunately, an amendment was added in the waning hours of the legislative session which made a drastic change to the current process by which the Chair of this Board is selected.

This amendment mandated that the State Treasurer serve as the Chair of the State Retirement and Pension System Board of Trustees. Currently, the Chair of this board is selected by Board, and, traditionally, the State Treasurer or the Comptroller who has seniority has been selected to be the Chair. There has never been a contentious selection

of the Chair and by allowing the more senior of the two elected officials to serve, there has always been someone chairing the Board who has a number of years serving on the Board and dealing with the issues which this Board faces.

This amendment was never discussed at either the House or Senate hearings, nor was it discussed with the State Retirement and Pension System Board members, the Executive Director, or Staff. The General Assembly never informed the Executive Director or Staff of the Board of this amendment, either during the deliberations on the final day of the Legislative Session or after the amendment was adopted and sent to the House and Senate floor.

It is also important to note that the State Retirement and Pension System Board of Trustees, at their May 15, 2018 meeting, voted to ask me to veto this legislation specifically because of this last minute amendment. In their letter, dated May 21, 2018, the Trustees states that the "Board believes that either the Board or staff for the agency should have been consulted prior to amending a bill that had been introduced at the Board's request and that as introduced, did not deal with Board composition or structure."

Currently, the State Treasurer serves as the Chair of the Board, with the Comptroller serving as the Vice Chair. It is clear to me that this amendment was adopted to prevent the current Comptroller from serving as the Chair, if the current State Treasurer were to ever decide to leave office. I see this amendment as nothing more than an effort by the General Assembly to exact a political payback on the Comptroller for being outspoken on a number of issues, many of which are at odds with the General Assembly and its leadership, having nothing to do with the leadership or management of the Maryland State Retirement and Pension System.

I find it objectionable to make such changes on a whim for political motives, especially when this Board is entrusted with oversight of billions of dollars in retirement benefits for over 400,000 active and retired state employees. Every member of this board, and especially the Chair and Vice Chair, have an incredible responsibility to the employees of this state, and it is unconscionable that the General Assembly would cynically use this bill as a vehicle to engage in political payback.

For these reasons, I have vetoed Senate Bill 178 – *State Retirement and Pension System – Board of Trustees – Oath*.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

Enclosure

Senate Bill 178

AN ACT concerning

State Retirement and Pension System – Board of Trustees – Oath

FOR the purpose of altering the number of days after the appointment or election of an individual to the Board of Trustees for the State Retirement and Pension System during which the individual is required to take a certain oath; repealing the requirement that individuals appointed or elected to the Board of Trustees take a certain oath; clarifying that individuals appointed or elected to the Board of Trustees take a certain oath required by a certain provision of the Maryland Constitution; requiring the oath to be taken before a clerk or deputy clerk of a circuit court; *providing for the chairman of the Board of Trustees;* making a conforming change; and generally relating to the Board of Trustees for the State Retirement and Pension System.

BY repealing and reenacting, with amendments,
Article – State Personnel and Pensions
Section 21–104(c) *and 21–105*
Annotated Code of Maryland
(2015 Replacement Volume and 2017 Supplement)

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

Article – State Personnel and Pensions

21–104.

(c) (1) Within **[**10**] 30** days after the appointment or election of an individual as a trustee, the individual shall take and subscribe to **[**an**] THE** oath of office **[**that, so far as it devolves on the individual, as trustee the individual:

(i) will diligently and honestly administer the affairs of the Board of Trustees; and

(ii) will not knowingly violate or willingly allow a violation of the law applicable to the several systems**] REQUIRED BY ARTICLE I, § 9 OF THE MARYLAND CONSTITUTION BEFORE A CLERK OR A DEPUTY CLERK OF A CIRCUIT COURT**.

(2) The **[**officer before whom the individual takes the oath**] CLERK OF THE CIRCUIT COURT** shall:

(i) certify the oath; and

(ii) submit the oath immediately to the office of the Secretary of State for filing in that office.

21–105.

(A) THE STATE TREASURER SHALL BE THE CHAIRMAN OF THE BOARD OF TRUSTEES.

(B) *The Board of Trustees shall**[**:*

(1) elect a chairman annually from its membership; and

*(2)**]**, by a majority vote of all of the trustees, elect a secretary who may be one of its members.*

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2018.

May 25, 2018

The Honorable Thomas V. Mike Miller, Jr.
President of the Senate
H–107 State House
Annapolis, MD 21401

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed Senate Bill 360 – *Carroll County – Public Facilities Bonds.*

This bill authorizes the Carroll County Commissioners to issue up to $32.7 million in general obligation bonds for the acquisition, construction, improvement, or renovation of public buildings, facilities, and public works projects. The date of maturity of the bonds cannot exceed 30 years.

House Bill 609, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign Senate Bill 360.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

AN ACT concerning

Carroll County – Public Facilities Bonds

FOR the purpose of authorizing and empowering the County Commissioners of Carroll County, from time to time, to borrow not more than $32,700,000 in order to finance the construction, improvement, or development of certain public facilities in Carroll County, including water and sewer projects, to finance loans for fire or emergency–related equipment, buildings, and other facilities of volunteer fire departments in the County, and to effect such borrowing by the issuance and sale at public or private sale of its general obligation bonds in like par amount; empowering the County to fix and determine, by resolution, the form, tenor, interest rate or rates or method of determining the same, terms, conditions, maturities, and all other details incident to the issuance and sale of the bonds; empowering the County to issue refunding bonds for the purchase or redemption of bonds in advance of maturity; providing that such borrowing may be undertaken by the County in the form of installment purchase obligations executed and delivered by the County for the purpose of acquiring agricultural land and woodland preservation easements; empowering and directing the County to levy, impose, and collect, annually, ad valorem taxes in rate and amount sufficient to provide funds for the payment of the maturing principal of and interest on the bonds; exempting the bonds and refunding bonds and the interest thereon and any income derived therefrom from all State, County, municipal, and other taxation in the State of Maryland; providing that nothing in this Act shall prevent the County from authorizing the issuance and sale of bonds the interest on which is not excludable from gross income for federal income tax purposes; and generally relating to the issuance and sale of such bonds.

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That, as used herein, the term "County" means the body politic and corporate of the State of Maryland known as the County Commissioners of Carroll County, and the term "construction, improvement, or development of public facilities" means the acquisition, alteration, construction, reconstruction, enlargement, equipping, expansion, extension, improvement, rehabilitation, renovation, upgrading, and repair of public buildings and facilities and public works projects, including, but not limited to, public works projects such as roads, bridges and storm drains, public school buildings and facilities, landfills, Carroll Community College buildings and facilities, public operational buildings and facilities such as buildings and facilities for County administrative use, public safety, health and social services, libraries, refuse disposal buildings and facilities, water and sewer infrastructure facilities, easements or similar or related rights in land that restrict the use of agricultural land or woodland to maintain the character of the land as agricultural land or woodland, and parks and recreation buildings and facilities, together with the costs of acquiring land or interests in land as well as any related architectural, financial, legal, planning, or engineering services.

SECTION 2. AND BE IT FURTHER ENACTED, That the County is hereby authorized to finance any part or all of the costs of the construction, improvements or development of public facilities described in Section 1 of this Act, to make loans to each and

every volunteer fire department in the County upon such terms and conditions as may be determined by the County for the purpose of financing certain fire or emergency–related equipment, buildings, or other facilities of volunteer fire departments, and to borrow money and incur indebtedness for those purposes, at one time or from time to time, in an amount not exceeding, in the aggregate, $32,700,000 and to evidence such borrowing by the issuance and sale upon its full faith and credit of general obligation bonds in like par amount, which may be issued at one time or from time to time, in one or more groups or series, as the County may determine.

SECTION 3. AND BE IT FURTHER ENACTED, That the bonds shall be issued in accordance with a resolution of the County, which shall describe generally the construction, improvement, or development of public facilities, including water and sewer projects, the fire or emergency–related equipment, buildings, or other facilities of volunteer fire departments in the County for which the proceeds of the bond sale are intended and the amount needed for those purposes. The County shall have and is hereby granted full and complete authority and discretion in the resolution to fix and determine with respect to the bonds of any issue: the designation, date of issue, denomination or denominations, form or forms, and tenor of the bonds which, without limitation, may be issued in registered form within the meaning of § 19–204 of the Local Government Article, as amended; the rate or rates of interest payable thereon, or the method of determining the same, which may include a variable rate; the date or dates and amount or amounts of maturity, which need not be in equal par amounts or in consecutive annual installments, provided only that no bond of any issue shall mature later than 30 years from the date of its issue; the manner of selling the bonds, which may be at either public or private sale, for such price or prices as may be determined to be for the best interests of Carroll County; the manner of executing and sealing the bonds, which may be by facsimile; the terms and conditions of any loans made to volunteer fire departments; the terms and conditions, if any, under which bonds may be tendered for payment or purchase prior to their stated maturity; the terms or conditions, if any, under which bonds may or shall be redeemed prior to their stated maturity; the place or places of payment of the principal of and the interest on the bonds, which may be at any bank or trust company within or without the State of Maryland; covenants relating to compliance with applicable requirements of federal income tax law, including (without limitation) covenants regarding the payment of rebate or penalties in lieu of rebate; covenants relating to compliance with applicable requirements of federal or State securities laws; and generally all matters incident to the terms, conditions, issuance, sale, and delivery thereof.

The bonds may be made redeemable before maturity, at the option of the County, at such price or prices and under such terms and conditions as may be fixed by the County prior to the issuance of the bonds, either in the resolution or in subsequent resolutions. The bonds may be issued in registered form, and provision may be made for the registration of the principal only. In case any officer whose signature appears on any bond ceases to be such officer before the delivery thereof, such signature shall nevertheless be valid and sufficient for all purposes as if the officer had remained in office until such delivery. The bonds and the issuance and sale thereof shall be exempt from the provisions of §§ 19–205 and 19–206 of the Local Government Article, as amended.

The borrowing authorized by this Act may also be undertaken by the County in the form of installment purchase obligations executed and delivered by the County for the purpose of acquiring easements or similar or related rights in land that restrict the use of agricultural land or woodland to maintain the character of the land as agricultural or woodland. The form of installment purchase obligations, the manner of accomplishing the acquisition of easements, which may be the direct exchange of installment purchase obligations for easement, and all matters incident to the execution and delivery of the installment purchase obligations and acquisition of the easements by the County shall be determined in the resolution. Except where the provisions of this Act would be inapplicable to installment purchase obligations, the term "bonds" used in this Act shall include installment purchase obligations and matters pertaining to the bonds under this Act, such as the security for the payment of the bonds, the exemption of the bonds from State, County, municipal, or other taxation, and authorization to issue refunding bonds and the limitation on the aggregate principal amount of bonds authorized for issuance, shall be applicable to installment purchase obligations.

The County may enter into agreements with agents, banks, fiduciaries, insurers, or others for the purpose of enhancing the marketability of any security for the bonds and for the purpose of securing any tender option that may be granted to holders of the bonds, all as may be determined and presented in the aforesaid resolution, which may (but need not) state as security for the performance by the County of any monetary obligations under such agreements the same security given by the County to bondholders for the performance by the County of its monetary obligations under the bonds.

If the County determines in the resolution to offer any of the bonds by solicitation of competitive bids at public sale, the resolution shall fix the terms and conditions of the public sale and shall adopt a form of notice of sale, which shall outline the terms and conditions, and a form of advertisement, which shall be published in one or more daily or weekly newspapers having a general circulation in the County and which may also be published in one or more journals having a circulation primarily among banks and investment bankers. At least one publication of the advertisement shall be made not less than 10 days before the sale of the bonds.

Upon delivery of any bonds to the purchaser or purchasers, payment therefor shall be made to the Comptroller of Carroll County or such other official of Carroll County as may be designated to receive such payment in a resolution passed by the County before such delivery.

SECTION 4. AND BE IT FURTHER ENACTED, That the net proceeds of the sale of bonds shall be used and applied exclusively and solely for the acquisition, construction, improvement, or development of public facilities, including water and sewer projects, to make loans to volunteer fire departments for the financing of fire or emergency–related equipment, buildings, or other facilities of volunteer fire departments in the County for which the bonds are sold. If the amounts borrowed shall prove inadequate to finance the projects described in the resolution, the County may issue additional bonds with the limitations hereof for the purpose of evidencing the borrowing of additional funds for such financing, provided the resolution authorizing the sale of additional bonds shall so recite,

but if the net proceeds of the sale of any issue of bonds exceed the amount needed to finance the projects described in the resolution, the excess funds so borrowed and not expended shall be applied to the payment of the next principal maturity of the bonds or to the redemption of any part of the bonds which have been made redeemable or to the purchase and cancellation of bonds, unless the County shall adopt a resolution allocating the excess funds to the acquisition, construction, improvement, or development of other public facilities, including water and sewer projects, or to the making of loans for fire or emergency–related equipment, buildings, or other facilities of volunteer fire departments in the County, as defined and within the limits set forth in this Act.

SECTION 5. AND BE IT FURTHER ENACTED, That the bonds hereby authorized shall constitute, and they shall so recite, an irrevocable pledge of the full faith and credit and unlimited taxing power of the County to the payment of the maturing principal of and interest on the bonds as and when they become payable. In each and every fiscal year that any of the bonds are outstanding, the County shall levy or cause to be levied ad valorem taxes upon all the assessable property within the corporate limits of the County in rate and amount sufficient to provide for or assure the payment, when due, of the principal of and interest on all the bonds maturing in each such fiscal year and, in the event the proceeds from the taxes so levied in any such fiscal year shall prove inadequate for such payment, additional taxes shall be levied in the succeeding fiscal year to make up any such deficiency. The County may apply to the payment of the principal of and interest on any bonds issued hereunder any funds received by it as loan repayments from volunteer fire departments and any funds received by it from the State of Maryland, the United States of America, any agency or instrumentality thereof, or from any other source, if such funds are granted for the purpose of assisting the County in financing the acquisition, construction, improvement, or development of the public facilities defined in this Act, including the water and sewer projects or the making of loans for the aforementioned fire or emergency–related equipment, buildings, or other facilities for volunteer fire departments in the County and, to the extent of any such funds received or receivable in any fiscal year, the taxes that are required to be levied may be reduced accordingly.

SECTION 6. AND BE IT FURTHER ENACTED, That the County is further authorized and empowered, at any time and from time to time, to issue its bonds in the manner herein above described for the purpose of refunding, by payment at maturity or upon purchase or redemption, any bonds issued hereunder. The validity of any such refunding bonds shall in no way be dependent upon or related to the validity or invalidity of the obligations so refunded. The powers herein granted with respect to the issuance of bonds shall be applicable to the issuance of refunding bonds. Such refunding bonds may be issued by the County for the purpose of providing it with funds to pay any of its outstanding bonds issued hereunder at maturity, for the purpose of providing it with funds to purchase in the open market any of its outstanding bonds issued hereunder, prior to the maturity thereof, or for the purpose of providing it with funds for the redemption prior to maturity of any outstanding bonds issued hereunder which are, by their terms, redeemable, for the purpose of providing it with funds to pay interest on any outstanding bonds issued hereunder prior to their payment at maturity of purchase or redemption in advance of maturity, or for the purpose of providing it with funds to pay any redemption or purchase premium in connection with the refunding of any of its outstanding bonds issued

hereunder. The proceeds of the sale of any such refunding bonds shall be segregated and set apart by the County as a separate trust fund to be used solely for the purpose of paying the purchase or redemption prices of the bonds to be refunded.

SECTION 7. AND BE IT FURTHER ENACTED, That the County may, prior to the preparation of definitive bonds, issue interim certificates or temporary bonds, exchangeable for definitive bonds when such bonds have been executed and are available for such delivery, provided, however, that any such interim certificates or temporary bonds shall be issued in all respects subject to the restrictions and requirements set forth in this Act. The County may, by appropriate resolution, provide for the replacement of any bonds issued hereunder which shall have become mutilated or lost or destroyed upon such conditions and after receiving such indemnity as the County may require.

SECTION 8. AND BE IT FURTHER ENACTED, That any and all obligations issued pursuant to the authority of this Act, their transfer, the interest payable thereon, and any income derived therefrom in the hands of the holders thereof from time to time (including any profit made in the sale thereof) shall be and are hereby declared to be at all times exempt from State, County, municipal, or other taxation of every kind and nature whatsoever within the State of Maryland. Nothing in this Act shall prevent the County from authorizing the issuance and sale of bonds the interest on which is not excludable from gross income for federal income tax purposes.

SECTION 9. AND BE IT FURTHER ENACTED, That the authority to borrow money and issue bonds conferred on the County by this Act shall be deemed to provide an additional and alternative authority for borrowing money and shall be regarded as supplemental and additional to powers conferred upon the County by other laws and shall not be regarded as in derogation of any power now existing; and all Acts of the General Assembly of Maryland heretofore passed authorizing the County to borrow money are hereby continued to the extent that the powers contained in such Acts have not been exercised, and nothing contained in this Act may be construed to impair, in any way, the validity of any bonds that may have been issued by the County under the authority of any said Acts, and the validity of the bonds is hereby ratified, confirmed, and approved. This Act, being necessary for the welfare of the inhabitants of Carroll County, shall be liberally construed to effect the purposes hereof. All Acts and parts of Acts inconsistent with the provisions of this Act are hereby repealed to the extent of such inconsistency.

SECTION 10. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2018.

May 25, 2018

The Honorable Thomas V. Mike Miller
President of the Senate

State House
Annapolis, Maryland 21401

The Honorable Michael E. Busch
Speaker of the House
State House
Annapolis, Maryland 21401

Dear President Miller and Speaker Busch:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed Senate Bill 572 and House Bill 1243 – *Prevailing Wage Rates – Public Work Contracts – Suits by Employees*.

Since taking office, our administration has been committed to ensuring Maryland is open for business and growing the state's economy. We have made significant progress and continue to undo years of overregulation, tax increases, and an anti–business attitude that have had a devastating impact on Maryland's economy and limited our ability to compete regionally and nationally. Maryland's workers and small businesses deserve a consistent and predictable business climate.

Unfortunately, this legislation is an inconsistent reversal of an action passed by the Maryland General Assembly action from just a few years ago. In 2010, the legislature passed House Bill 1100 and Senate Bill 451 *Prevailing Wage Rates – Public Works Contracts – Suits by Employees* – that explicitly reversed a workers' ability to sue for recovery of unpaid wages under the State's prevailing wage law without first filing a complaint with the Commissioner of Labor and Industry. Only after an employer failed to comply could a worker file a civil suit. This will ultimately limit a workers' ability to fully recover wages and hamper our administration's efforts to recover one hundred percent of what workers are owed. Given my Administration's strong record of wage recovery, I can only assume that the General Assembly was not fully informed when it passed this law.

Senate Bill 572 and House Bill 1243 allow a worker paid less than the prevailing wage on a public works project to circumvent the Commissioner of Labor and Industry and sue to recover the difference in wages. The bill also includes a provision holding the general or prime contractor and subcontractor jointly and severally liable for any violation on the part of the subcontractor. This legislation is attempting to solve a problem that does not exist. Nothing in this bill will result in workers receiving their full wages more quickly, but will most likely result in excessive civil proceedings for contractors relating to allegations of improper payment made by a subcontractor's employee without any requirement to file a claim with the Commissioner.

The Department of Labor, Licensing, and Regulation successfully enforces the Prevailing Wage law with a record of swift action and full recovery of wages for workers. Under current law, an employee is allowed to bring a private court action to recover lost wages, but requires the Commissioner to investigate and attempt to resolve the claim first. The current Prevailing Wage system has successfully resolved every case since 2012 without the need

to go to court. The system is zero cost to workers and they are awarded the full amount of what they are owed – no fees are withheld by the Prevailing Wage unit for handling the claims. Complaints are resolved quickly and there are no backlogs or waiting lists to process claims.

This legislation will negatively impact the Department's ability to investigate wage payments and harm the interests of workers on Prevailing Wage jobs. Ultimately, having employers subject to both Department of Labor, Licensing, and Regulation investigations and civil proceedings over the same issue is unnecessary and burdensome.

For these reasons, I have vetoed Senate Bill 572 and House Bill 1243.

Sincerely,

Lawrence J. Hogan, Jr
Governor

Senate Bill 572

AN ACT concerning

Prevailing Wage Rates – Public Work Contracts – Suits by Employees

FOR the purpose of authorizing certain employees to sue to recover the difference between certain prevailing wage rates and certain amounts under certain circumstances; providing that a certain determination by the Commissioner of Labor and Industry does not preclude certain employees from filing a certain action; ~~requiring a court to order the payment of certain damages under certain circumstances;~~ providing for the liability of certain contractors and subcontractors under certain circumstances; and generally relating to private rights of action under the State prevailing wage law.

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 17–224
Annotated Code of Maryland
(2015 Replacement Volume and 2017 Supplement)

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

Article – State Finance and Procurement

17–224.

(a) (1) If an employee under a public work contract is paid less than the prevailing wage rate for that employee's classification for the work performed, the employee may file a complaint with the Commissioner.

(2) Except as otherwise provided in this section, a complaint filed under this section shall be subject to the provisions of § 17–221 of this subtitle.

(3) If the Commissioner's investigation determines that the employer violated provisions of this subtitle, the Commissioner shall try to resolve the issue informally.

(4) (i) If the Commissioner is unable to resolve the matter informally, the Commissioner shall issue an order for a hearing in accordance with § 17–221 of this subtitle.

(ii) If, at the conclusion of a hearing ordered under subparagraph (i) of this paragraph, the Commissioner determines that the employee is entitled to restitution under this subtitle, the Commissioner shall issue an order in accordance with § 17–221 of this subtitle.

(iii) If an employer of an employee found to be entitled to restitution under subparagraph (ii) of this paragraph is no longer working under a contract with a public body, the Commissioner may order that restitution be paid directly by the employer to the employee within a reasonable period of time, as determined by the Commissioner.

(5) If an employer fails to comply with an order to pay restitution to an employee under paragraph (4)(iii) of this subsection, the Commissioner or the employee may bring a civil action to enforce the order in the circuit court in the county where the employee or employer is located.

(B) (1) IF AN EMPLOYEE UNDER A PUBLIC WORK CONTRACT IS PAID LESS THAN THE PREVAILING WAGE RATE FOR THAT EMPLOYEE'S CLASSIFICATION FOR THE WORK PERFORMED, THE EMPLOYEE IS ENTITLED TO SUE TO RECOVER THE DIFFERENCE BETWEEN THE PREVAILING WAGE RATE AND THE AMOUNT RECEIVED BY THE EMPLOYEE.

(2) A DETERMINATION BY THE COMMISSIONER THAT A CONTRACTOR IS REQUIRED TO MAKE RESTITUTION UNDER SUBSECTION (A)(4) OF THIS SECTION DOES NOT PRECLUDE AN EMPLOYEE FROM FILING AN ACTION UNDER THIS SUBSECTION.

[(b)**]** **(C)** (1) An action under this section is considered to be a suit for wages.

(2) A judgment in an action under this section shall have the same force and effect as any other judgment for wages.

(3) An action brought under this section for a violation of this subtitle shall be filed within 3 years from the date the affected employee knew or should have known of the violation.

[(c)**] (D)** (1) The failure of an employee to protest orally or in writing the payment of a wage that is less than the prevailing wage rate is not a bar to recovery in an action under this section.

(2) A contract or other written document in which an employee states that the employee shall be paid less than the amount required by this subtitle does not bar the recovery of any remedy required under this subtitle.

[(d)**] (E)** (1) Except as provided in paragraph (3) of this subsection, if the court in an action filed under this section finds that an employer paid an employee less than the requisite prevailing wage, the court shall award the affected employee the difference between the wage actually paid and the prevailing wage at the time that the services were rendered.

(2) (i) Subject to subparagraph (ii) of this paragraph, unpaid fringe benefit contributions owed for an employee in accordance with this section shall be paid to the appropriate benefit fund, plan, or program.

(ii) In the absence of an appropriate benefit fund, plan, or program, the amount owed for fringe benefits for an employee shall be paid directly to the employee.

(3) The court **[**may**]** ~~SHALL~~ order the payment of **[**double damages or**]** treble damages under this section if the court finds that the employer withheld wages or fringe benefits willfully and knowingly or with deliberate ignorance or reckless disregard of the employer's obligations under this subtitle.

(4) In an action under this section, the court shall award a prevailing plaintiff reasonable counsel fees and costs.

(5) If the court finds that an employee submitted a false or fraudulent claim in an action under this section, the court may order the employee to pay the employer reasonable counsel fees and costs.

(6) THE CONTRACTOR AND SUBCONTRACTOR SHALL BE JOINTLY AND SEVERALLY LIABLE FOR ANY VIOLATION OF THE SUBCONTRACTOR'S OBLIGATIONS UNDER THIS SECTION.

[(e)**] (F)** (1) Subject to paragraph (2) of this subsection, an action filed in accordance with this section may be brought by one or more employees on behalf of that employee or group of employees and on behalf of other employees similarly situated.

(2) An employee may not be a party plaintiff to an action brought under this section unless that employee files written consent with the court in which the action is brought to become a party to the action.

[(f)**] (G)** (1) A person found to have made a false or fraudulent representation or omission known to be false or made with deliberate ignorance or reckless disregard for its truth or falsity regarding a material fact in connection with any prevailing wage payroll record required by § 17–220 of this subtitle is liable for a civil penalty of $1,000 for each falsified record.

(2) The penalty shall be recoverable in a civil action filed in accordance with this section and paid to the State General Fund.

[(g)**] (H)** An employer may not discharge, threaten, or otherwise retaliate or discriminate against an employee regarding compensation or other terms and conditions of employment because that employee or an organization or other person acting on behalf of that employee:

(1) reports or makes a complaint under this subtitle or otherwise asserts the worker's rights under this section; or

(2) participates in any investigation, hearing, or inquiry held by the Commissioner under § 17–221 of this subtitle.

[(h)**] (I)** (1) A contractor or subcontractor may not retaliate or discriminate against an employee in violation of this section.

(2) If a contractor or subcontractor retaliates or discriminates against an employee in violation of this section, the affected employee may file an action in any court of competent jurisdiction within 3 years from the employee's knowledge of the action.

(3) If the court finds in favor of the employee in an action brought under this subsection, the court shall order that the contractor or subcontractor:

(i) reinstate the employee or provide the employee restitution, as appropriate;

(ii) pay the employee an amount equal to three times the amount of back wages and fringe benefits calculated from the date of the violation; and

(iii) pay reasonable counsel fees and other costs.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2018.

May 25, 2018

The Honorable Thomas V. Mike Miller, Jr.
President of the Senate
H–107 State House
Annapolis, MD 21401

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed Senate Bill 575 – *Workers' Compensation – Self–Insured Employers – Suspected Fraud Reporting*.

This bill expands the authority of the Maryland Insurance Administration's (MIA) Insurance Fraud Division to encompass investigating and taking action on fraud committed by or against a governmental self–insurance (workers' compensation) group and employers who self–insure. The bill also expands the definition of "insurance fraud" and requires governmental self–insurance (workers' compensation) groups and employers who self–insure or participate in a self–insurance group for workers' compensation to report suspected insurance fraud cases, in writing, to the Insurance Fraud Division. Information submitted to the fraud division in this manner is not subject to public inspection, except under specified circumstances.

House Bill 1499, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign Senate Bill 575.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

Senate Bill 575

AN ACT concerning

Workers' Compensation – Self–Insured Employers – Suspected Fraud Reporting

FOR the purpose of <u>providing that certain provisions of law governing the reporting and investigation of workers' compensation insurance fraud claims apply to certain employers who participate in a governmental self–insurance group for workers' compensation and to certain employers who self–insure for workers' compensation; providing that certain provisions of law governing fraudulent insurance acts that apply to insurers also apply to certain governmental self–insurance groups and certain employers who self–insure or participate in certain self–insurance groups; altering the definition of "insurance fraud" for purposes of certain provisions of law governing reporting and preventing insurance fraud to include a violation of false claims under the workers' compensation law;</u> requiring certain governmental self–insurance groups and employers who self–insure or participate in a self–insurance group in accordance with certain provisions of law governing workers'

compensation to report suspected insurance fraud in writing to the Fraud Division of the Maryland Insurance Administration; providing that certain information, documentation, or other evidence provided by certain self–insured groups or employers to certain persons is not subject to public inspection under certain circumstances; and generally relating to suspected insurance fraud reporting.

BY repealing and reenacting, with amendments,
Article – Insurance
Section 1–204, 27–402, 27–801, and 27–802
Annotated Code of Maryland
(2017 Replacement Volume)

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

Article – Insurance

1–204.

[For**]** **EXCEPT FOR PROVISIONS GOVERNING THE REPORTING AND INVESTIGATION OF WORKERS' COMPENSATION INSURANCE FRAUD CLAIMS UNDER § 2–201, TITLE 2, SUBTITLE 4, AND TITLE 27, SUBTITLES 4 AND 8 OF THIS ARTICLE,** the purpose of workers' compensation insurance, this article does not apply to an employer who:

(1) participates in a governmental self–insurance group under § 9–404 of the Labor and Employment Article; or

(2) self–insures under § 9–405 of the Labor and Employment Article.

27–402.

The provisions of this subtitle that apply to insurers also apply to:

(1) a corporation that operates a nonprofit health service plan under Title 14, Subtitle 2 of this article;

(2) a dental plan organization as defined in § 14–401 of this article;

(3) a health maintenance organization as defined in Title 19, Subtitle 7 of the Health – General Article;

(4) a surplus lines insurer;

(5) the Maryland Automobile Insurance Fund;

(6) the State when a claim has been filed against the State under Title 12 of the State Government Article;

(7) the State when a claim has been filed against the State under Title 2, Subtitle 5 of the State Personnel and Pensions Article;

(8) the State, including the Uninsured Employers' Fund, when a claim has been filed against the State under Title 9 of the Labor and Employment Article;

(9) the Maryland Transit Administration when acting as a self–insurer under § 7–703 of the Transportation Article;

(10) a third party administrator under Title 8, Subtitle 3 of this article;

(11) a self–insurer under § 17–103(a)(2) of the Transportation Article;

(12) the Maryland Health Insurance Plan; **[**and**]**

(13) A GOVERNMENTAL SELF–INSURER GROUP FORMED IN ACCORDANCE WITH § 9–404 OF THE LABOR AND EMPLOYMENT ARTICLE;

(14) AN EMPLOYER WHO SELF–INSURES OR PARTICIPATES IN A SELF–INSURANCE GROUP IN ACCORDANCE WITH § 9–405 OF THE LABOR AND EMPLOYMENT ARTICLE; AND

[(13)**] (15)** an agent, employee, or representative of an entity described in items (1) through **[**(12)**] (14)** of this section.

27–801.

(a) In this subtitle the following words have the meanings indicated.

(b) "Fraud Division" means the Insurance Fraud Division in the Administration.

(c) "Insurance fraud" means:

(1) a violation of Subtitle 4 of this title;

(2) theft, as set out in §§ 7–101 through 7–104 of the Criminal Law Article:

(i) from a person regulated under this article; or

(ii) by a person regulated under this article or an officer, director, agent, or employee of a person regulated under this article; **[**or**]**

(3) A VIOLATION OF § 9–1106 OF THE LABOR AND EMPLOYMENT ARTICLE; OR

[(3)**] (4)** any other fraudulent activity that is committed by or against a person regulated under this article and is a violation of:

(i) Title 1, Subtitle 3 of the Agriculture Article;

(ii) Title 19, Subtitle 2 or Subtitle 3 of the Business Regulation Article;

(iii) Title 14, Subtitle 29, § 11–810 or § 14–1317 of the Commercial Law Article;

(iv) the Criminal Law Article other than Title 8, Subtitle 2, Part II or § 10–614;

(v) Title 12, Subtitle 9 of the Financial Institutions Article;

(vi) § 14–127 of the Real Property Article;

(vii) § 6–301 of the Alcoholic Beverages Article;

(viii) § 109 of the Code of Public Local Laws of Caroline County;

(ix) § 4–103 of the Code of Public Local Laws of Carroll County; or

(x) § 8A–1 of the Code of Public Local Laws of Talbot County.

27–802.

(a) (1) An authorized insurer, its employees, fund producers, insurance producers, a viatical settlement provider, or a viatical settlement broker who in good faith has cause to believe that insurance fraud has been or is being committed shall report the suspected insurance fraud in writing to the Commissioner, the Fraud Division, or the appropriate federal, State, or local law enforcement authorities.

(2) An independent insurance producer shall meet the reporting requirement of this subsection by reporting the suspected insurance fraud in writing to the Fraud Division.

(3) A registered premium finance company shall meet the requirement of this subsection by reporting suspected insurance fraud in writing to the Fraud Division.

(4) A GOVERNMENTAL SELF–INSURANCE GROUP FORMED IN ACCORDANCE WITH § 9–404 OF THE LABOR AND EMPLOYMENT ARTICLE OR AN

EMPLOYER WHO SELF–INSURES OR PARTICIPATES IN A SELF–INSURANCE GROUP IN ACCORDANCE WITH § 9–405 OF THE LABOR AND EMPLOYMENT ARTICLE SHALL MEET THE REPORTING REQUIREMENT OF THIS SUBSECTION BY REPORTING SUSPECTED INSURANCE FRAUD IN WRITING TO THE FRAUD DIVISION.

(b) In addition to any protection provided under Title 4, Subtitle 4, Part IV of the General Provisions Article, any information, documentation, or other evidence provided under this section by an insurer, its employees, fund producers, or insurance producers, a viatical settlement provider, a viatical settlement broker, an independent insurance producer, **[**or**]** a registered premium finance company**, A GOVERNMENTAL SELF–INSURANCE GROUP, OR AN EMPLOYER WHO SELF–INSURES OR PARTICIPATES IN A SELF–INSURANCE GROUP** to the Commissioner, the Fraud Division, or a federal, State, or local law enforcement authority in connection with an investigation of suspected insurance fraud is not subject to public inspection for as long as the Commissioner, Fraud Division, or law enforcement authority considers the withholding to be necessary to complete an investigation of the suspected fraud or to protect the person investigated from unwarranted injury.

(c) A person is not subject to civil liability for a cause of action by virtue of reporting suspected insurance fraud, or furnishing or receiving information relating to suspected, anticipated, or completed fraudulent insurance acts, if:

(1) the report was made, or the information was furnished to or received from:

(i) the Commissioner, Fraud Division, or an appropriate federal, State, or local law enforcement authority;

(ii) the National Association of Insurance Commissioners or its agent, employee, or designee;

(iii) a nonprofit organization established to detect and prevent fraudulent insurance acts or its agent, employee, or designee;

(iv) a person that contracts to provide special investigative unit services to an insurer; or

(v) a provider of a recognized comprehensive database system that the Commissioner approves to monitor activities involving insurance fraud or an employee of the provider; and

(2) the person that reported the suspected insurance fraud, or furnished or received the information, acted in good faith when making the report or furnishing or receiving the information.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2018.

May 25, 2018

The Honorable Thomas V. Mike Miller, Jr.
President of the Senate
H–107 State House
Annapolis, MD 21401

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed Senate Bill 612 – *State Education Aid – Tax Increment Financing Development Districts – Repeal of Sunset Provision.*

This bill repeals the termination date on mandated Tax Increment Financing (TIF) district grants to local school systems.

House Bill 693, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign Senate Bill 612.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

Senate Bill 612

AN ACT concerning

State Education Aid – Tax Increment Financing Development Districts – Repeal of Sunset Provision

FOR the purpose of repealing the termination provision of a certain provision of law relating to the annual certification of the amount of assessable base for certain real property for the purposes of calculating certain State education aid; and generally relating to the calculation of education aid for primary and secondary education.

BY repealing and reenacting, with amendments,
Chapter 258 of the Acts of the General Assembly of 2016

Section 4

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

Chapter 258 of the Acts of 2016

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2016. **[**It shall remain effective for a period of 3 years and 1 month and, at the end of June 30, 2019, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.**]**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2018.

May 25, 2018

The Honorable Thomas V. Mike Miller, Jr.
President of the Senate
H–107 State House
Annapolis, MD 21401

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed Senate Bill 630 – *Nursing Homes – Partial Payment for Services Provided.*

This bill requires the Maryland Department of Health (MDH), at the request of a nursing home, to make an advance payment for Medicaid services provided to a resident who has filed an application for Medicaid services if the eligibility of the resident has not been determined within 90 days after the application was filed. An advance payment may not exceed 50% of the estimated amount due for uncompensated services. If the resident is found eligible for Medicaid, MDH must pay the balance due to the nursing home. If the resident is ineligible for Medicaid, MDH must recover any advance payments made by reducing payments due to the nursing home.

House Bill 1215, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign Senate Bill 630.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

Senate Bill 630

AN ACT concerning

Nursing Homes – Partial Payment for Services Provided

FOR the purpose of requiring the Maryland Department of Health to make a certain advance payment to a nursing home at the request of the nursing home under certain circumstances; providing that the advance payment may not exceed a certain amount; requiring the Department to pay the balance due to a nursing home under certain circumstances; requiring the Department to recover certain advance payments in a certain manner under certain circumstances; defining a certain term; providing for the termination of this Act; and generally relating to the Maryland Medical Assistance Program and advance payments to nursing homes.

BY repealing and reenacting, without amendments,
Article – Health – General
Section 15–101(a) and (h)
Annotated Code of Maryland
(2015 Replacement Volume and 2017 Supplement)

BY adding to
Article – Health – General
Section 15–149
Annotated Code of Maryland
(2015 Replacement Volume and 2017 Supplement)

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

Article – Health – General

15–101.

(a) In this title the following words have the meanings indicated.

(h) "Program" means the Maryland Medical Assistance Program.

15–149.

(A) IN THIS SECTION, "NURSING HOME" HAS THE MEANING STATED IN § 19–1401 OF THIS ARTICLE.

(B) AT THE REQUEST OF A NURSING HOME, THE DEPARTMENT SHALL MAKE AN ADVANCE PAYMENT TO THE NURSING HOME FOR UNCOMPENSATED PROGRAM SERVICES PROVIDED TO A RESIDENT OF THE NURSING HOME WHO HAS FILED AN APPLICATION FOR PROGRAM SERVICES IF THE ELIGIBILITY OF THE RESIDENT FOR PROGRAM SERVICES HAS NOT BEEN DETERMINED WITHIN 90 DAYS AFTER THE APPLICATION WAS FILED.

(C) AN ADVANCE PAYMENT PROVIDED UNDER SUBSECTION (B) OF THIS SECTION MAY NOT EXCEED 50% OF THE ESTIMATED AMOUNT DUE FOR THE UNCOMPENSATED SERVICES.

(D) (1) IF AN ADVANCE PAYMENT IS PROVIDED TO A NURSING HOME AND AN APPLICATION FOR PROGRAM SERVICES IS GRANTED, THE DEPARTMENT SHALL PAY THE BALANCE DUE TO THE NURSING HOME.

(2) IF AN ADVANCE PAYMENT IS PROVIDED TO A NURSING HOME AND AN APPLICATION FOR PROGRAM SERVICES IS DENIED, THE DEPARTMENT SHALL RECOVER ANY ADVANCE PAYMENTS MADE ON BEHALF OF THE APPLICANT BY REDUCING PAYMENTS DUE TO THE NURSING HOME.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2018. It shall remain effective for a period of 2 years and, at the end of June 30, 2020, this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect.

May 25, 2018

The Honorable Thomas V. Mike Miller, Jr.
President of the Senate
H–107 State House
Annapolis, MD 21401

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed Senate Bill 636 – *Cecil County – Office of the Sheriff – Employees and Collective Bargaining.*

This bill makes numerous alterations to statutory provisions regarding the Office of the Sheriff of Cecil County, including provisions regarding collective bargaining rights and probationary periods of employment.

House Bill 284, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign Senate Bill 636.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

Senate Bill 636

AN ACT concerning

Cecil County – Office of the Sheriff – Employees and Collective Bargaining

FOR the purpose of altering the period of time for which certain employees of the Office of the Sheriff of Cecil County are required to serve a probationary period; altering which deputy sheriffs in the Office have the right to organize and collectively bargain with the Sheriff and the Cecil County Executive with regard to certain wages, benefits, and working conditions; correcting certain references to the government of Cecil County and to a certain position in the Office; making certain stylistic changes; and generally relating to the Office of the Sheriff of Cecil County.

BY repealing and reenacting, with amendments,
Article – Courts and Judicial Proceedings
Section 2–309(i)
Annotated Code of Maryland
(2013 Replacement Volume and 2017 Supplement)

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

Article – Courts and Judicial Proceedings

2–309.

(i) (1) (i) The Sheriff of Cecil County shall receive an annual salary of:

1. $71,500 for fiscal year 2015;

2. $75,075 for fiscal year 2016;

3. $77,350 for fiscal year 2017;

4. $79,675 for fiscal year 2018;

5. Except as provided in item 6 of this subparagraph, $82,075

for fiscal year 2019; and

6. For each term of office beginning with the term that begins in fiscal year 2019, not less than $100,000, as determined by the County Council of Cecil County.

(ii) In addition, the Sheriff shall receive the benefits and reimbursements for reasonable expenses in the performance of duties as provided in the Cecil County budget or by law, including, where appropriate:

1. Reimbursements under the Standard State Travel Regulations; and

2. Participation in the health care plan that is negotiated for county employees.

(iii) 1. The Sheriff shall appoint a chief deputy sheriff, a community **[**adult rehabilitation center administrator**]** **CORRECTIONS DIRECTOR**, a detention center director, a detention center deputy director, a law enforcement director, law enforcement personnel, and a personal secretary to the Sheriff.

2. The Sheriff may remove the chief deputy sheriff, community **[**adult rehabilitation center administrator**]** **CORRECTIONS DIRECTOR**, detention center director, detention center deputy director, law enforcement director, and personal secretary to the Sheriff at any time whether or not for cause.

(iv) The Sheriff shall appoint full–time or part–time employees, as provided in the county budget, to perform the duties of the Sheriff's **[**department. These employees shall include**]** **OFFICE, INCLUDING**:

1. Deputy sheriffs to perform law enforcement functions;

2. Deputy sheriffs to perform correctional functions;

3. Clerical and other civilian employees;

4. A director of the detention center; and

5. A community **[**adult rehabilitation center administrator**]** **CORRECTIONS DIRECTOR**.

(v) **1.** Except for the chief deputy sheriff, each employee of the Sheriff's **[**department**]** **OFFICE** shall serve a probationary period of **[**12**]** **18** months.

2. The Sheriff may extend the probationary period **REQUIRED UNDER SUBSUBPARAGRAPH 1 OF THIS SUBPARAGRAPH** for cause.

(vi) During the probationary period of an employee in the Sheriff's **[**department**]** **OFFICE**:

1. The employee shall satisfactorily complete any certification or training program specified by the Sheriff; and

2. The determination of an employee's qualifications and ability to serve in the position of a permanent nonprobationary employee shall be within the sole discretion of the Sheriff.

(vii) Except for the chief deputy sheriff, community **[**adult rehabilitation center administrator**]** **CORRECTIONS DIRECTOR**, detention center director, detention center deputy director, law enforcement director, law enforcement personnel, and personal secretary to the Sheriff, all employees of the Sheriff's department:

1. Shall be governed by the rank, salary, and benefit structures of the Cecil County personnel policy; and

2. Except as provided in subparagraph (viii) of this paragraph, upon completion of the probationary period, shall be subject to the Cecil County personnel regulations and policies in all matters.

(viii) Law enforcement officers and correctional officers of the Sheriff's **[**department**]** **OFFICE** may be terminated only for just cause.

(ix) Nothing in this subsection shall affect the rights and protections accorded an employee under any other provision of law.

(2) The **[**County Commissioners**]** **COUNTY** shall pay the cost of all necessary expenses incurred by the Sheriff and his staff.

(3) The Sheriff of Cecil County shall have the authority to formulate and administer a plan that includes the method of supervision to use inmates the Sheriff deems eligible and selects to perform, under the supervision of State, county, or municipal employees, tasks the Sheriff assigns within the county or any incorporated municipality within the county.

(4) (i) **1. [**This**]** **EXCEPT AS PROVIDED IN SUBSUBPARAGRAPH 2 OF THIS SUBPARAGRAPH, THIS** paragraph applies only to all full–time sworn law enforcement deputy sheriffs in the Office of the Sheriff of Cecil County at the rank of **[**Sergeant**]** **CAPTAIN** and below.

2. THIS PARAGRAPH DOES NOT APPLY TO THE CHIEF DEPUTY SHERIFF, COMMUNITY CORRECTIONS DIRECTOR, DETENTION CENTER DIRECTOR, DETENTION CENTER DEPUTY DIRECTOR, OR LAW ENFORCEMENT

DIRECTOR IN THE OFFICE OF THE SHERIFF OF CECIL COUNTY.

(ii) A full–time sworn law enforcement deputy sheriff at the rank of **[**Sergeant**]** **CAPTAIN** and below may:

1. Take part in or refrain from taking part in forming, joining, supporting, or participating in a labor organization or its lawful activities;

2. Select a labor organization as the exclusive representative of the deputy sheriffs subject to this paragraph;

3. Engage in collective bargaining with the Sheriff and the County **[**Commissioners**]** **EXECUTIVE** of Cecil County, or the designee of the Sheriff and the County **[**Commissioners**]** **EXECUTIVE**, concerning wages, benefits, and any working conditions that are not included in subparagraph (v)4A of this paragraph through a labor organization certified as the exclusive representative of the deputy sheriffs subject to this paragraph;

4. Subject to item 2 of this subparagraph, enter into a collective bargaining agreement, through the exclusive representative of the deputy sheriffs subject to this paragraph, covering the wages, benefits, and other working conditions of the deputy sheriffs subject to this paragraph, to the extent that the agreement does not impair the rights of the Sheriff set forth in subparagraph (v)4 of this paragraph; and

5. Decertify a labor organization as the exclusive representative of the deputy sheriffs subject to this paragraph.

(iii) 1. A labor organization seeking certification as an exclusive representative must submit a petition to the Sheriff and the County **[**Commissioners**]** **EXECUTIVE** that is signed by more than 50% of the sworn law enforcement deputy sheriffs at the rank of **[**Sergeant**]** **CAPTAIN** and below indicating the desire of the deputy sheriffs subject to this paragraph to be represented exclusively by the labor organization for the purpose of collective bargaining.

2. If the Sheriff and the County **[**Commissioners**]** **EXECUTIVE** do not challenge the validity of the petition within 20 calendar days following the receipt of the petition, the labor organization shall be deemed certified as the exclusive representative.

3. If the Sheriff or the County **[**Commissioners**]** **EXECUTIVE** challenge the validity of the petition, the American Arbitration Association shall appoint a neutral third party to conduct an election and to certify whether the labor organization has been selected as the exclusive representative by a majority of the votes cast in the election.

4. The costs associated with the appointment of a neutral

third party shall be shared equally by the parties.

5. A labor organization shall be deemed decertified if a petition is submitted to the Sheriff and the County **[**Commissioners**]** **EXECUTIVE** that is signed by more than 50% of the full–time sworn law enforcement deputy sheriffs at the rank of **[**Sergeant**]** **CAPTAIN** and below indicating the desire of the deputy sheriffs to decertify the labor organization as the exclusive representative of the deputy sheriffs subject to this paragraph.

(iv) 1. Following certification of an exclusive representative as provided in subparagraph (iii) of this paragraph, the certified labor organization and the Sheriff and the County **[**Commissioners**]** **EXECUTIVE** shall meet at reasonable times and engage in collective bargaining in good faith.

2. The certified labor organization, the Sheriff, and the County **[**Commissioners**]** **EXECUTIVE** shall make every reasonable effort to conclude negotiations on or before February 15 of the year in which a collective bargaining agreement is to take effect to allow for inclusion by the Sheriff of matters agreed upon in its budget request to the County **[**Commissioners**]** **COUNCIL**.

3. A. If the certified labor organization and the Sheriff and the County **[**Commissioners**]** **EXECUTIVE** are unable to reach an agreement before the date set forth in subsubparagraph 2 of this subparagraph, either the certified labor organization or the Sheriff and the County **[**Commissioners**]** **EXECUTIVE** may seek nonbinding mediation through the Federal Mediation and Conciliation Service.

B. A party seeking nonbinding mediation under subsubsubparagraph A of this subsubparagraph shall give written notice to the other party and to the Federal Mediation and Conciliation Service at least 15 days prior to the start of the first mediation meeting.

C. The costs associated with the mediator or mediation process shall be shared equally by the parties.

D. The certified labor organization, the Sheriff, and the County **[**Commissioners**]** **EXECUTIVE** shall engage in nonbinding mediation for at least 30 days unless they mutually agree in writing to termination or extension of the mediation or reach an agreement.

E. The contents of the mediation proceedings may not be disclosed by any of the parties or the mediator.

4. The **[**governing body of Cecil**]** County **COUNCIL** shall enact a local ordinance that allows for nonbinding arbitration if the certified labor organization, the Sheriff, and the County **[**Commissioners**]** **EXECUTIVE** are unable to reach an agreement through mediation under subsubparagraph 3 of this subparagraph.

(v) 1. A collective bargaining agreement shall contain all matters of agreement reached in the collective bargaining process.

2. A collective bargaining agreement may contain a grievance procedure providing for binding arbitration of grievances in reference to a labor contract, including grievances related to interpretation or breach of contract.

3. A collective bargaining agreement reached in accordance with this paragraph shall be in writing and signed by the certified representatives of the parties involved in the collective bargaining negotiations.

4. Except as provided in the code and regulations of Cecil County, the provisions of this subparagraph and any agreement made under it may not impair the right and the responsibility of the Sheriff to:

A. Determine the mission, budget, organization, numbers, types, classes, grades, and ranks of deputy sheriffs assigned, the services to be rendered, operations to be performed, and the technology to be used;

B. Set the standards of service and exercise control over operations, including the rights to determine work shifts and the number of deputy sheriffs on each shift;

C. Assign and retain deputy sheriffs in positions within the office;

D. Determine and set work projects, tours of duty, schedules, assignments, and methods, means, and personnel by which operations are conducted;

E. Determine and set technology needs, internal security practices, equipment, and the location of facilities;

F. Maintain and improve the efficiency and effectiveness of operations;

G. Hire, direct, supervise, promote, demote, discipline, assign, and with reasonable cause discharge full–time sworn law enforcement deputy sheriffs, with the exception that the promotional process for deputy sheriffs up to the rank of **[**Sergeant**]** **CAPTAIN** and the number and composition of trial boards for the discipline process for deputy sheriffs at the rank of **[**Sergeant**]** **CAPTAIN** and below are subject to collective bargaining;

H. Determine and set the qualifications of deputy sheriffs for appointment and promotions; and

I. Determine and set the standards of conduct, and with

consultation and input from the certified labor organization, adopt rules, orders, policies, regulations, and procedures on mutually agreed on subjects.

5. A collective bargaining agreement is not effective until it is ratified by the majority of votes cast by the deputy sheriffs in the bargaining unit and approved by the Sheriff **[**and**],** the County **[**Commissioners**]** **EXECUTIVE, AND THE COUNTY COUNCIL**.

(vi) Nothing in this paragraph may be construed to:

1. Authorize or otherwise allow a deputy sheriff to engage in a strike as defined in § 3–303 of the State Personnel and Pensions Article; and

2. Authorize the collection of mandatory membership fees from nonmembers of the employee organization.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2018.

April 4, 2018

The Honorable Thomas V. Mike Miller, Jr.
President of the Senate
State House
Annapolis, MD 21401

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed Senate Bill 639 – Education – Public School Personnel – Disciplinary Hearing Procedures.

This piece of legislation is the latest in an unfortunate series of efforts by the General Assembly to pass flawed bills that negatively impact our public schools. For reasons only known to them, far too many members of the legislature seem obsessed with watering down educational standards and stymying efforts to provide accountability. This needs to stop.

Previous examples include a botched effort to restructure the hiring process of members of the Maryland State Board of Education and the "Protect our [Failing] Schools Act" that has resulted in Maryland now having the second lowest school accountability rankings in the nation. Most recently, the General Assembly rammed through legislation to strip fiscal oversight over school construction from statewide elected officials.

Senate Bill 639, the latest installment, is a radical attempt to strip away the duly authorized powers of local school boards to terminate certified personnel. Such a transfer would negatively impact the ability of local boards to respond to employee misconduct consistent with the best interests of students, the school system, and community.

There is currently a well–defined and very robust due process for terminating teachers in the Maryland annotated code and developed under case law. This current system strikes the right balance between ensuring a hearing and providing local school boards with the ability to discipline teachers who school superintendents have suspended. Local boards represent the interests of the entire community – students, teachers, parents, businesses, government leaders – and must be able to decide when an individual's actions should disqualify that person from teaching students in that community.

Conversely, outside arbitrators, by definition, have no connection to the school system and should not be entitled to determine who should remain employed by the school system. Local boards of education can debate and deliberate on termination and suspension cases. However, Senate Bill 639 would empower a single individual to make these important decisions for our students.

Incredibly, this bill would allow an arbitrator, who would not even have to reside in the State of Maryland, to make these decisions. That type of system might work for other areas of personnel law, but our first and primary consideration in our public schools simply must be the welfare and needs of our students.

The vast majority of our teachers do an incredible job, often making tough personal sacrifices, educating our students. However, those who consistently fail our children and consistently fail to achieve our state's high standards should not be protected through an extra layer of obscure bureaucracy.

This bill strips away the duty and responsibility from the elected or appointed board members that are most responsible for the children and gives it to a disinterested arbitrator who has no vested interest or "deference to educational judgement" that local school officials have.

For these reasons, I have vetoed SB 639.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

Cc: The Honorable Michael E. Busch

Senate Bill 639

AN ACT concerning

Education – Public School Personnel – Disciplinary Hearing Procedures

FOR the purpose of altering certain procedures for suspending or dismissing certain public school personnel; authorizing certain public school personnel to request arbitration under certain circumstances; specifying the procedures for arbitration; assigning responsibility for certain costs; providing that an arbitrator's decision and award is final and binding on the parties, subject to review by a circuit court; making stylistic changes; and generally relating to procedures for suspending or dismissing certain public school personnel.

BY repealing and reenacting, with amendments,
Article – Education
Section 6–202
Annotated Code of Maryland
(2014 Replacement Volume and 2017 Supplement)

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

Article – Education

6–202.

(a) (1) On the recommendation of the county superintendent, a county board may suspend or dismiss a teacher, principal, supervisor, assistant superintendent, or other professional assistant for:

(i) Immorality;

(ii) Misconduct in office, including knowingly failing to report suspected child abuse in violation of § 5–704 of the Family Law Article;

(iii) Insubordination;

(iv) Incompetency; or

(v) Willful neglect of duty.

(2) **(I)** Before removing an individual, the county board shall send the individual a copy of the charges against **[**him**]** **THE INDIVIDUAL** and give **[**him**]** **THE INDIVIDUAL** an opportunity within 10 days to request **[**a**]:**

1. A hearing **BEFORE THE COUNTY BOARD; OR**

2. A HEARING BEFORE AN ARBITRATOR IN ACCORDANCE WITH PARAGRAPH (5) OF THIS SUBSECTION.

(II) IF AN INDIVIDUAL'S REQUEST DOES NOT SPECIFY THAT THE HEARING BE BEFORE AN ARBITRATOR, THE REQUEST SHALL BE CONSIDERED A REQUEST FOR A HEARING BEFORE THE COUNTY BOARD.

(3) If the individual requests a hearing **BEFORE THE COUNTY BOARD** within the 10–day period:

(i) The county board promptly shall hold a hearing, but a hearing may not be set within 10 days after the county board sends the individual a notice of the hearing; and

(ii) The individual shall have an opportunity to be heard before the county board, in person or by counsel, and to bring witnesses to the hearing.

(4) The individual may appeal from the decision of the county board to the State Board.

(5) (I) IF THE INDIVIDUAL OR THE INDIVIDUAL'S REPRESENTATIVE REQUESTS A HEARING BEFORE AN ARBITRATOR WITHIN THE 10–DAY PERIOD, THE HEARING SHALL BE CONDUCTED IN ACCORDANCE WITH THIS PARAGRAPH.

(II) 1. AN ARBITRATOR SHALL BE SELECTED AS PROVIDED IN THIS SUBPARAGRAPH.

2. IF THE SUPERINTENDENT AND THE INDIVIDUAL OR THE INDIVIDUAL'S REPRESENTATIVE AGREE ON AN ARBITRATOR, THE ARBITRATOR SHALL BE CHOSEN BY MUTUAL AGREEMENT OF THE PARTIES.

3. IF THE SUPERINTENDENT AND THE INDIVIDUAL OR THE INDIVIDUAL'S REPRESENTATIVE CANNOT AGREE ON AN ARBITRATOR:

A. THE COUNTY BOARD SHALL REQUEST FROM THE AMERICAN ARBITRATION ASSOCIATION A LIST OF THE ARBITRATORS THAT ARE AVAILABLE TO HEAR THIS TYPE OF DISPUTE AND MAKE A DECISION IN A TIMELY MANNER; AND

B. THE PARTIES SHALL ALTERNATELY STRIKE ARBITRATORS FROM THE LIST.

(III) THE RULES OF LABOR ARBITRATION SHALL APPLY.

(IV) A STENOGRAPHIC RECORD SHALL BE MADE OF THE PROCEEDINGS BEFORE THE ARBITRATOR.

(V) 1. THE ARBITRATOR SHALL DETERMINE WHETHER THE COUNTY BOARD HAS SUFFICIENT CAUSE FOR SUSPENSION OR DISMISSAL OF THE INDIVIDUAL.

2. A LESSER PENALTY THAN DISMISSAL MAY BE IMPOSED BY THE ARBITRATOR ONLY TO THE EXTENT THAT EITHER PARTY PROPOSES THE LESSER PENALTY IN THE PROCEEDING.

(VI) IN MAKING A DECISION, THE ARBITRATION PROCEEDING IS GOVERNED BY THIS SUBTITLE AND BY THE COLLECTIVE BARGAINING AGREEMENT APPLICABLE TO THE INDIVIDUAL.

(VII) EXCEPT AS PROVIDED IN SUBPARAGRAPH (VIII) OF THIS PARAGRAPH, THE COUNTY BOARD SHALL PAY THE FULL COST AND EXPENSES OF THE ARBITRATION, INCLUDING:

1. THE AMERICAN ARBITRATION ASSOCIATION'S ADMINISTRATIVE FEES;

2. THE FULL COST OF THE STENOGRAPHY AND TRANSCRIPTION SERVICES;

3. REASONABLE EXPENSES FOR REQUIRED TRAVEL;

4. REASONABLE FEES AND EXPENSES INCURRED OR CHARGED BY THE ARBITRATOR; AND

5. REASONABLE EXPENSES ASSOCIATED WITH ANY WITNESS OR EVIDENCE PRODUCED AT THE REQUEST OF THE ARBITRATOR.

(VIII) 1. THE SUPERINTENDENT AND THE INDIVIDUAL SHALL PAY THEIR OWN RESPECTIVE COSTS AND EXPENSES ASSOCIATED WITH ANY WITNESS OR EVIDENCE PRODUCED BY THEM.

2. IF THE ARBITRATOR DETERMINES THAT THE COUNTY BOARD HAD SUFFICIENT CAUSE TO SUSPEND OR DISMISS THE INDIVIDUAL, THEN THE INDIVIDUAL SHALL PAY 50% OF THE FEES AND EXPENSES INCURRED OR CHARGED BY THE ARBITRATOR AND THE ADMINISTRATIVE FEES, IF ANY, OF THE AMERICAN ARBITRATION ASSOCIATION.

(IX) 1. THE DECISION AND AWARD BY THE ARBITRATOR ARE FINAL AND BINDING ON THE PARTIES.

2. AN INDIVIDUAL MAY REQUEST JUDICIAL REVIEW BY A CIRCUIT COURT, WHICH SHALL BE GOVERNED BY THE MARYLAND UNIFORM ARBITRATION ACT.

[(5)**] (6)** Notwithstanding any provision of local law, in Baltimore City the suspension and removal of assistant superintendents and higher levels shall be as provided by the personnel system established by the Baltimore City Board of School Commissioners under § 4–311 of this article.

(b) (1) Except as provided in paragraph (3) of this subsection, the probationary period of employment of a certificated employee in a local school system shall cover a period of 3 years from the date of employment and shall consist of a 1–year employment contract that may be renewed by the county board.

(2) (i) A county board shall evaluate annually a nontenured certificated employee based on established performance evaluation criteria.

(ii) Subject to subparagraph (iii) of this paragraph, if the nontenured certificated employee is not on track to qualify for tenure at any formal evaluation point:

1. A mentor promptly shall be assigned to the employee to provide the employee comprehensive guidance and instruction; and

2. Additional professional development shall be provided to the employee, as appropriate.

(iii) Nothing in this paragraph shall be construed to prohibit a county board from assigning a mentor at any time during a nontenured certificated employee's employment.

(3) (i) Subject to subparagraph (ii) of this paragraph, if a certificated employee has achieved tenure in a local school system in the State and moves to another local school system in the State, that employee shall be tenured if the employee's contract is renewed after 1 year of probationary employment in the local school system to which the employee relocated if:

1. The employee's final evaluation in the local school system from which the employee departed is satisfactory or better; and

2. There has been no break in the employee's service between the two systems of longer than 1 year.

(ii) A local school system may extend the probationary period for a certificated employee subject to subparagraph (i) of this paragraph for a second year from the date of employment if:

1. The employee does not qualify for tenure at the end of the

first year based on established performance evaluation criteria; and

2. The employee demonstrates a strong potential for improvement.

(4) (i) The State Board shall adopt regulations that implement the provisions of paragraphs (1) and (2) of this subsection and define the scope of a mentoring program and professional development that will be aligned with the 3–year probationary period.

(ii) The State Board shall adopt regulations to establish standards for effective mentoring, including provisions to ensure that mentors provide mentoring that:

1. Is focused;

2. Is systematic;

3. Is ongoing;

4. Is of high quality;

5. Is geared to the needs of each employee being mentored;

6. Includes observations; and

7. Includes feedback.

(c) (1) In this subsection, "student growth" means student progress assessed by multiple measures and from a clearly articulated baseline to one or more points in time.

(2) (i) Subject to subparagraph (iii) of this paragraph, the State Board shall adopt regulations that establish general standards for performance evaluations for certificated teachers and principals that include observations, clear standards, rigor, and claims and evidence of observed instruction.

(ii) The regulations adopted under subparagraph (i) of this paragraph shall include default model performance evaluation criteria.

(iii) Before the proposal of the regulations required under this paragraph, the State Board shall solicit information and recommendations from each local school system and convene a meeting wherein this information and these recommendations are discussed and considered.

(3) Subject to paragraph (6) of this subsection:

(i) A county board shall establish performance evaluation criteria

for certificated teachers and principals in the local school system based on the general standards adopted under paragraph (2) of this subsection that are mutually agreed on by the local school system and the exclusive employee representative.

(ii) Nothing in this paragraph shall be construed to require mutual agreement under subparagraph (i) of this paragraph to be governed by Subtitles 4 and 5 of this title.

(4) Subject to paragraph (7) of this subsection, the performance evaluation criteria developed under paragraph (3) of this subsection:

(i) Shall include data on student growth as a significant component of the evaluation and as one of multiple measures; and

(ii) May not be based solely on an existing or newly created single examination or assessment.

(5) (i) An existing or newly created single examination or assessment may be used as one of the multiple measures.

(ii) No single criterion shall account for more than 35% of the total performance evaluation criteria.

(6) If a local school system and the exclusive employee representative fail to mutually agree under paragraph (3) of this subsection, the default model performance evaluation criteria adopted by the State Board under paragraph (2)(ii) of this subsection shall take effect in the local jurisdiction 6 months following the final adoption of the regulations.

(7) Any performance evaluation criteria developed under this subsection may not require student growth data based on State assessments to be used to make personnel decisions before the 2016–2017 school year.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2018.

May 24, 2018

The Honorable Thomas V. Mike Miller, Jr.
President of the Senate
State House
Annapolis, MD 21401

The Honorable Michael E. Busch
Speaker of the House
State House
Annapolis, MD 21401

Dear Mr. President and Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed the following bills: Senate Bill 739 – *State Board of Education – Membership – Teachers and Parent*, House Bill 808 – *Collective Bargaining – Education – Supervisory Personnel*, and House Bill 643/Senate Bill 678 *State Department of Education – Employment Categories and Practices*.

Combined, these three bills are a crude attempt to accomplish two things; dilute the authority of the Board of Education by packing it with appointees that represent the interest of lobbyists rather than those of teachers, parents, administrators or students. Secondly, these bills also seek to prevent the Maryland State Department of Education – a body that is already insulated from political influence – from removing high–level employees who are ineffectual, incompetent, or who simply aren't getting the job done. It is shocking to me, as well as the citizens of Maryland, the lengths the General Assembly will go to to weaken accountability that will hurt the performance of our school children.

Furthermore, these pieces of flawed legislation join the unfortunate litany of attempts by the General Assembly over the past four sessions to pass legislation to enhance the power of partisan special interests, while eliminating transparency and usurping accountability. Perhaps most egregiously, last session the General Assembly passed the "Protect our [Failing] Schools Act," which has resulted in Maryland being the second least accountable system in the nation.

This session, when students, parents, teachers, and communities were once again demanding greater accountability and oversight of local education systems, the General Assembly passed retributive, tone–deaf legislation to take away fiscal oversight from the state's fiscal leaders. Instead, the General Assembly placed billions of taxpayer dollars into the hands of the Interagency Commission on School Construction, making us less and less accountable when a number of ethical lapses, criminal charges, grading irregularities, and procurement crises have occurred in multiple Maryland school systems.

Unfortunately, the General Assembly chose not to pass legislation to provide for an independent Investigator General, which would have also increased accountability in our schools by establishing an anonymous electronic tip program, protected whistleblowers, and allowed Maryland citizens to report any potential cases of wrongdoing, abuse, or unethical conduct.

Senate Bill 739 seems to mirror the botched attempt by the General Assembly in 2016 to pass legislation which would have changed the process Maryland uses to select the superintendent of the state school system, a move that would have diluted the independence of the State Board of Education.

With this bill again the General Assembly has tried to take away authority from the State Board of Education. The current twelve–member body, is comprised of individuals who bring to their role a diverse range of personal, professional, and civic experiences in education. Members of the State Board are selected for their great diversity in the skills, experiences and areas of expertise, such as accountability, special education, school leadership, mental health, and gifted and talented education.

One of the most troubling aspects of Senate Bill 739 is the selection process by which members would be chosen. For teacher members, the Governor selects one member from a list of three elementary teachers and the other from a list of three secondary teachers produced by the Maryland State Education Association and Baltimore Teachers Union. The parent member would be selected from a list of three parents chosen by the Maryland Parent Teacher Association.

Several State Board members are themselves parents of students currently, or previously enrolled in Maryland Public schools. The membership also includes current and former educators and administrators in positions on local boards and in parent teacher associations. These and other experiences provide Maryland's State Board with a solid understanding of education policy and practice, including the practical implications of policy decisions as they affect children, parents, and teachers.

Senate Bill 739 would negatively impact the Board's composition by requiring an additional three seats be selected from just two of the many important stakeholder groups that exist statewide. Excluded groups would include, but not be limited to, school principals, guidance counselors, curriculum specialists, superintendents, librarians, and support personnel. The participation of individuals selected to represent a specific special interest union group, could have unintended negative consequences and could result in encouraging narrowly focused agendas that are in the interest of a few and not for the common good. A policy making board of the magnitude and importance of the Maryland State Board of Education should represent all stakeholder groups, but most of all who are singularly focused on the needs of Maryland school children and not just be a collection of special interest group representatives.

In an additional attempt to dilute the authority of the Maryland State Board of Education, the General Assembly passed Senate Bill 678 and House Bill 643. This legislation seeks to weaken the Department's capacity to achieve its – and the board's, the General Assembly's and the Governor's – educational goals at a time when strengthening the performance of Maryland's schools and students is more important than ever.

Senate Bill 678 and House Bill 643 would eliminate appointment positions within the Department and convert the status of approximately 900 at–will (special appointment) employees. A long standing practice in the State is not simply convert at–will employees to merit protected without a competitive recruitment. This legislation would have significant operational and fiscal impacts on the Department in terms of loss of flexibility to hire highly qualified staff, increased administrative burdens, and the fiscal consequences of great expenses for staff and operations. Most troubling, this bill will hinder the Department's

ability to compete in an already competitive job market and make it more difficult to acquire talented employees.

In a continued theme to strip accountability from our local school systems, the General Assembly passed House Bill 808. This legislation alters the definition of "supervisory employee" by removing "as determined by the public school employer in negotiation with the employee organization." Removing this language would remove the local authority to determine who is classified as supervisory, thus sending any disputes over classifications to the Public School Labor Relations Board.

There are several ramifications associated with the new structure set up in House Bill 808. Local school system organizational charts would be left to the discretion of the Public School Labor Relations Board. Preventing local school systems from making changes to staff and roles will impact students, as employees would be unable to be reclassified without a tedious legal challenge which could take a year or more.

Removing all authority to classify positions from the local board will prohibit the public school employer from ensuring an efficient operation best suited for the needs of their local school system. In order to operate efficiently, the local school system needs to be able to reclassify positions to the changing needs of the school system.

At a time when unethical behavior and mismanagement continue to hold our school systems back from serving school children, this sequence of bills that I am vetoing today, coupled with the other legislation I have spoken out against, seek to move Maryland in exactly the wrong direction. Instead, we need to be working together to restore accountability for our students, teachers, and families.

For these reasons, I have vetoed Senate Bill 739, Senate Bill 678/House Bill 643, and House Bill 808.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

Senate Bill 678

AN ACT concerning

State Department of Education – Employment Categories and Practices

FOR the purpose of altering the employment categories of certain employees of the State Department of Education; requiring that all positions in the Department be appointed positions in the professional service and skilled service as well as the executive service and management service, subject to a certain exception; repealing the authority for certain special appointment positions in the Department; altering the procedures for the appointment, setting of qualifications, and transfer of

employees of the Department; specifying that certain employees serve at the pleasure of the State Board of Education and State Superintendent of Schools; specifying that certain removal procedures apply to certain other employees; altering the removal procedures for certain employees; requiring that the Department ~~assign certain employees to certain employment categories on or before a certain date~~ determine which employment classifications at the Department would be described as being in the skilled service or the professional service; requiring that, beginning on a certain date, all employees hired by the Department in certain classifications be hired, promoted, or transferred in accordance with certain requirements; ~~making a stylistic change;~~ and generally relating to the employment categories and practices of the State Department of Education.

BY repealing and reenacting, with amendments,
Article – Education
Section 2–104 and 2–105
Annotated Code of Maryland
(2014 Replacement Volume and 2017 Supplement)

BY repealing and reenacting, without amendments,
Article – State Personnel and Pensions
Section 6–405(a)(3)
Annotated Code of Maryland
(2015 Replacement Volume and 2017 Supplement)

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

Article – Education

2–104.

(a) The following **[**professional assistants**]** **EMPLOYEES** shall be appointed to **POSITIONS IN** the Department:

(1) No more than three Deputy State Superintendents of Schools;

(2) Any assistant State superintendents and directors authorized by the State Board and provided in the State budget; and

(3) Any other **[**professional assistants and agents**]** **EMPLOYEES TO FILL POSITIONS** authorized by the State Board and provided in the State budget.

(b) (1) **(I)** From the nominees proposed by the State Superintendent, the State Board shall appoint all **[**professional assistants to**]** **EMPLOYEES TO POSITIONS IN** the Department**[**, who**].**

(II) EXCEPT AS PROVIDED IN § 6–405(A)(3) OF THE STATE PERSONNEL AND PENSIONS ARTICLE, ALL POSITIONS shall be in the executive service, management service, **[**or special appointments**]** **PROFESSIONAL SERVICE, OR SKILLED SERVICE** in the State Personnel Management System.

(2) With the advice of the State Superintendent, the State Board shall set the qualifications for each **[**professional**]** position **IN THE DEPARTMENT**.

(3) The State Superintendent may transfer **[**professional assistants**]** **EMPLOYEES** within the Department as necessary.

(c) (1) All **[**professional assistants**]** **EMPLOYEES WHO ARE ASSIGNED TO THE EXECUTIVE SERVICE OR MANAGEMENT SERVICE OR WHO ARE SPECIAL APPOINTEES** shall serve at the pleasure of the State Board and the State Superintendent.

(2) All **[**other professional assistants**]** **EMPLOYEES IN THE PROFESSIONAL OR SKILLED SERVICE** shall be removed in accordance with procedures **[**set by the State Board**]** **SET FORTH IN § 2–105 OF THIS SUBTITLE AND TITLE 11 OF THE STATE PERSONNEL AND PENSIONS ARTICLE**.

(d) (1) In addition to the other duties specified in this section, each **[**professional assistant to**]** **EMPLOYEE IN** the Department has the duties assigned to **[**him**]** **THE EMPLOYEE** by the State Superintendent.

(2) The Deputy State Superintendent designated by the State Superintendent or by the State Board is the acting State Superintendent when the State Superintendent is absent or disabled.

(3) Assistant State superintendents and directors have charge of the various divisions of the Department.

2–105.

[(a) Unless otherwise provided by law, the State Superintendent shall appoint and remove all clerical assistants and other nonprofessional personnel of the Department in accordance with the provisions of the State Personnel and Pensions Article that govern the skilled service, with the exception of special appointments.

(b)**]** The credential secretary and statistician of the Department are special appointments in the State Personnel Management System.

Article – State Personnel and Pensions

6–405.

(a) Except as otherwise provided by law, individuals in the following positions in the skilled service and professional service are considered special appointments:

(3) as determined by the Secretary, a position which performs a significant policy role or provides direct support to a member of the executive service;

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before ~~January 1, 2019~~ July 1, 2018, the State Department of Education shall ~~assign all personnel who presently are designated by the Department as professional or nonprofessional assistants to the appropriate employment category under Title 6, Subtitle 4 of the State Personnel and Pensions Article~~ determine which employment classifications at the Department would ordinarily be described as being in the skilled service or the professional service. Beginning on July 1, 2018, all employees hired by the Department in classifications that the Department determines would ordinarily be described as skilled or professional shall be hired, promoted, or transferred in accordance with the requirements for skilled or professional employees under Title 6, Subtitle 4 of the State Personnel and Pensions Article.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ July 1, 2018.

Senate Bill 739

AN ACT concerning

State Board of Education – Membership – Teachers and Parent

FOR the purpose of altering the membership of the State Board of Education to add a certain number of members who are certified teachers *with certain experience* and a parent of a certain student; authorizing the teacher members to be appointed to the State Board although the individuals are subject to the authority of the State Board; *prohibiting the two teacher members from being employed by the same county board of education;* requiring the Governor to appoint certain teacher members with the advice and consent of the Senate from ~~a certain list~~ certain lists *jointly* submitted to the Governor ~~by the State Department of Education after an election by teachers in the State~~ by certain organizations; requiring the Department to provide notice of a certain vacancy to certain individuals and organizations; *authorizing certain teacher members to attend and participate in certain sessions of the State Board; prohibiting a teacher member from voting on certain matters;* ~~requiring a certain election to be conducted under regulations that the Department adopts;~~ requiring the Governor to appoint a certain parent member with the advice and consent of the Senate from a certain list submitted to the Governor by the Maryland PTA; requiring the Department to provide notice of a certain vacancy to the Maryland PTA; *authorizing a certain parent member to attend and participate in certain sessions of the State Board;* providing for the appointment and terms of certain initial teacher members

and the initial parent member of the State Board; and generally relating to teacher and parent members of the State Board of Education.

BY repealing and reenacting, with amendments,
Article – Education
Section 2–202
Annotated Code of Maryland
(2014 Replacement Volume and 2017 Supplement)

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

Article – Education

2–202.

(a) The State Board consists of **[**11**]** **14** regular members, and 1 student member, appointed by the Governor with the advice and consent of the Senate.

(b) (1) In making appointments to the State Board, the Governor shall consider representation from:

(i) All parts of this State; and

(ii) Areas of this State with concentrations of population or unique needs.

(2) **[**The**]** **EXCEPT AS PROVIDED IN PARAGRAPH (4) OF THIS SUBSECTION, THE** members of the Board shall be appointed from the general public.

(3) The following individuals may not be appointed to the Board:

(i) Except for the **TEACHER MEMBERS AND** student member, any individual who is subject to the authority of the Board;

(ii) The Governor; and

(iii) The State Superintendent.

(4) (I) ***1.*** **OF THE 14 REGULAR MEMBERS OF THE STATE BOARD, TWO REGULAR MEMBERS SHALL BE CERTIFIED TEACHERS~~.~~*:***

A. ONE OF WHOM SHALL HAVE EXPERIENCE TEACHING STUDENTS IN AT LEAST ONE OF THE ELEMENTARY GRADES, KINDERGARTEN THROUGH SIXTH GRADE; AND

B. ONE OF WHOM SHALL HAVE EXPERIENCE TEACHING STUDENTS IN AT LEAST ONE OF THE SECONDARY GRADES, SEVENTH THROUGH TWELFTH GRADE.

(II) ***1.*** ~~**THE**~~ ***SUBJECT TO SUBSUBPARAGRAPH 2 OF THIS SUBPARAGRAPH, THE*** **GOVERNOR SHALL APPOINT THE TEACHER MEMBERS, WITH THE ADVICE AND CONSENT OF THE SENATE, FROM A LIST OF** ~~**QUALIFIED**~~ ***THREE QUALIFIED ELEMENTARY SCHOOL TEACHERS AND THREE QUALIFIED SECONDARY SCHOOL TEACHERS*** ~~**INDIVIDUALS**~~ ***JOINTLY*** **SUBMITTED TO THE GOVERNOR** ~~**BY THE DEPARTMENT AFTER AN ELECTION BY TEACHERS IN THE STATE AS FOLLOWS:**~~ ***BY THE MARYLAND STATE EDUCATION ASSOCIATION AND BALTIMORE TEACHERS UNION.***

~~**1. THREE INDIVIDUALS NOMINATED BY THE MARYLAND STATE EDUCATION ASSOCIATION; AND**~~

~~**2. TWO INDIVIDUALS NOMINATED BY THE BALTIMORE TEACHERS UNION.**~~

2. THE TWO TEACHER MEMBERS MAY NOT BE EMPLOYED BY THE SAME COUNTY BOARD OF EDUCATION.

(III) THE DEPARTMENT SHALL PROVIDE NOTICE OF A TEACHER MEMBER VACANCY ON THE STATE BOARD TO:

1. ALL CERTIFIED TEACHERS IN THE STATE; AND

2. ALL STATEWIDE TEACHERS' ORGANIZATIONS REPRESENTING A MAJORITY OF TEACHERS IN THE STATE FOR PURPOSES OF COLLECTIVE BARGAINING.

(IV) A TEACHER MEMBER MAY ATTEND AND PARTICIPATE IN AN EXECUTIVE SESSION OF THE STATE BOARD.

(V) A TEACHER MEMBER MAY NOT VOTE ON ANY MATTER THAT RELATES TO APPEALS TO THE STATE BOARD UNDER § 6–202 OF THIS ARTICLE.

~~**(IV) THE ELECTIONS SHALL BE CONDUCTED UNDER REGULATIONS THAT THE DEPARTMENT ADOPTS.**~~

(5) (I) OF THE 14 REGULAR MEMBERS OF THE STATE BOARD, ONE REGULAR MEMBER SHALL BE THE PARENT OF A STUDENT ENROLLED IN A PUBLIC SCHOOL IN THE STATE.

(II) THE GOVERNOR SHALL APPOINT THE PARENT MEMBER, WITH THE ADVICE AND CONSENT OF THE SENATE, FROM A LIST OF THREE QUALIFIED INDIVIDUALS SUBMITTED TO THE GOVERNOR BY THE MARYLAND PTA.

(III) THE DEPARTMENT SHALL PROVIDE NOTICE OF THE PARENT MEMBER VACANCY ON THE STATE BOARD TO THE MARYLAND PTA.

(IV) THE PARENT MEMBER MAY ATTEND AND PARTICIPATE IN AN EXECUTIVE SESSION OF THE STATE BOARD.

[(4)**] (6)** The student member shall be selected by the Governor from a list of 2 persons nominated by the Maryland Association of Student Councils.

(c) (1) The student member shall be:

(i) A regularly enrolled student; and

(ii) In good standing in a public high school in the State.

(2) The student member may attend and participate in an executive session of the Board.

(3) The student member may not vote on any matter that relates to:

(i) The dismissal of or other disciplinary action involving personnel; or

(ii) Appeals to the State Board under § 2–205 of this subtitle or § 4–205 or § 6–202 of this article.

(d) (1) Each regular member serves for a term of 4 years and until a successor is appointed and qualifies. These terms are staggered as required by the terms of the members serving on the State Board as of July 1, 1989.

(2) The Governor shall appoint a new member to fill any vacancy on the Board for the remainder of that term and until a successor is appointed and qualifies.

(3) A member is eligible for reappointment but may not serve for more than two full 4–year terms.

(4) The student member shall serve for a term of 1 year. A student member is eligible for reappointment but may not serve more than two full 1–year terms.

SECTION 2. AND BE IT FURTHER ENACTED, That the Governor shall appoint, in accordance with § 2–202(b)(4) and (5) of the Education Article, as enacted by this Act:

(1) the two initial teacher members of the State Board of Education as follows:

(i) one teacher member shall serve for a term of 1 year and 6 months beginning January 1, 2019, and terminating at the end of June 30, 2020, or until a successor is appointed and qualifies; and

(ii) one teacher member shall serve for a term of 2 years and 6 months beginning January 1, 2019, and terminating at the end of June 30, 2021, or until a successor is appointed and qualifies; and

(2) the initial parent member of the State Board of Education shall serve for a term of 3 years and 6 months beginning January 1, 2019, and terminating at the end of June 30, 2022, or until a successor is appointed and qualifies.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2018.

May 25, 2018

The Honorable Thomas V. Mike Miller, Jr.
President of the Senate
H–107 State House
Annapolis, MD 21401

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed Senate Bill 740 – *State Department of Education – Breakfast and Lunch Programs – Funding (Maryland Cares for Kids Act).*

This bill makes the State responsible for the student share of the costs of (1) reduced–price breakfasts provided under the federal School Breakfast Program by fiscal 2022 and (2) reduced–price lunches provided under the National School Lunch Program (NSLP) by fiscal 2023; the bill phases in this responsibility beginning with fiscal 2020. The bill applies to public school students and students in nonpublic schools that participate in the program. A local board of education or participating nonpublic school is prohibited from charging a student who is eligible for a reduced–price breakfast beginning in fiscal 2022 or a reduced–price lunch beginning in fiscal 2023, for any portion of the cost of a meal.

House Bill 315, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign Senate Bill 740.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

Senate Bill 740

AN ACT concerning

State Department of Education – Breakfast and Lunch Programs – Funding (Maryland Cares for Kids Act)

FOR the purpose of repealing the requirement that the State Board of Education adopt and publish standards for the administration of a subsidized feeding program; *authorizing a certain nonpublic school to participate in a certain feeding program; requiring the State to be responsible for reimbursing certain nonpublic schools under certain circumstances; providing for the distribution of certain funding to certain nonpublic schools and county boards;* requiring the State to be responsible for reimbursing a county board of education or ~~a nonprofit~~ *certain* nonpublic ~~school~~ *schools* for certain portions of the student share of the costs of certain meals in certain fiscal years; prohibiting a county board of education or ~~nonprofit~~ *certain* nonpublic ~~school~~ *schools* from charging certain students for any portion of the cost of ~~a meal~~ certain meals beginning in certain fiscal years; *requiring certain nonpublic schools to provide a free feeding program for certain children; providing for the use of certain funds for certain nonpublic schools; authorizing a nonpublic school to provide a certain free breakfast program; providing for the eligibility for certain nonpublic schools for a certain State reimbursement under certain circumstances;* altering the calculation for the reimbursement for certain meals to certain county boards of education and ~~nonprofit~~ *certain* nonpublic schools; making conforming changes; and generally relating to school breakfast and lunch programs and the State Department of Education.

BY repealing and reenacting, with amendments,
Article – Education
Section 7–601 through 7–605 and 7–701 through 7–703
Annotated Code of Maryland
(2014 Replacement Volume and 2017 Supplement)

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

Article – Education

7–601.

(a) The State Board shall adopt and publish standards for the administration of the **[**subsidized and**]** free feeding program.

(b) The standards shall**[**:

(1) Provide**]** **PROVIDE** for eligibility requirements for the program**[**; and

(2) Require each county board to provide a reduced price lunch program**]**.

7–602.

(a) There is a State Free Feeding Program.

(b) (1) Each year the State Superintendent shall determine the amount of State money required to provide ~~a~~ **[**program of subsidized and**]** ~~free feeding~~ **[**programs**]** ~~PROGRAM~~ ***THE PROGRAM*** in accordance with the standards adopted by the State Board under this subtitle.

(2) The amount included for this Program in the annual State budget, including any federal funds, and as submitted to and appropriated by the General Assembly, shall be distributed to the county boards ***AND PARTICIPATING NONPUBLIC SCHOOLS IN THE SAME MANNER AS THE PROCESS ESTABLISHED*** under § 5–212 of this article.

(C) ***(1) A NONPUBLIC SCHOOL IN THE STATE THAT PARTICIPATES IN THE FEDERAL SCHOOL BREAKFAST PROGRAM OR THE NATIONAL SCHOOL LUNCH PROGRAM MAY PARTICIPATE IN THE STATE FREE FEEDING PROGRAM.***

(2) IF A NONPUBLIC SCHOOL PARTICIPATES IN THE STATE FREE FEEDING PROGRAM, THE STATE SHALL BE RESPONSIBLE FOR REIMBURSING THE PARTICIPATING NONPUBLIC SCHOOL UNDER SUBSECTION (D) OF THIS SECTION.

(D) **THE STATE SHALL BE RESPONSIBLE FOR REIMBURSING A COUNTY BOARD OR A ~~NONPROFIT~~ *PARTICIPATING* NONPUBLIC SCHOOL FOR THE STUDENT SHARE OF THE COSTS OF:**

(1) BREAKFASTS PROVIDED TO ALL STUDENTS ELIGIBLE FOR A REDUCED PRICE BREAKFAST UNDER THE FEDERAL SCHOOL BREAKFAST PROGRAM ACCORDING TO THE FOLLOWING SCHEDULE:

(I) FOR FISCAL YEAR 2020, 10 CENTS PER STUDENT;

(II) FOR FISCAL YEAR 2021, 20 CENTS PER STUDENT; AND

(III) FOR FISCAL YEAR 2022 AND EACH FISCAL YEAR THEREAFTER, THE GREATER OF 30 CENTS PER STUDENT OR THE REQUIRED FEDERAL PER MEAL CHARGE TO STUDENTS; AND

(2) LUNCHES PROVIDED TO ALL STUDENTS ELIGIBLE FOR A REDUCED PRICE LUNCH UNDER THE NATIONAL SCHOOL LUNCH PROGRAM ACCORDING TO THE FOLLOWING SCHEDULE:

(I) FOR FISCAL YEAR 2020, 10 CENTS PER STUDENT;

(II) FOR FISCAL YEAR 2021, 20 CENTS PER STUDENT;

(III) FOR FISCAL YEAR 2022, 30 CENTS PER STUDENT; AND

(IV) FOR FISCAL YEAR 2023 AND EACH FISCAL YEAR THEREAFTER, THE GREATER OF 40 CENTS PER STUDENT OR THE REQUIRED FEDERAL PER MEAL CHARGE TO STUDENTS.

~~(D)~~ *(E)* ~~A~~ (1) BEGINNING IN FISCAL YEAR 2022, A COUNTY BOARD OR ~~NONPROFIT~~ *PARTICIPATING* NONPUBLIC SCHOOL MAY NOT CHARGE A STUDENT WHO IS ELIGIBLE FOR A REDUCED PRICE BREAKFAST ~~OR LUNCH~~ FOR ANY PORTION OF THE COST OF ~~A~~ *THE* MEAL.

(2) BEGINNING IN FISCAL YEAR 2023, A COUNTY BOARD OR ~~NONPROFIT~~ *PARTICIPATING* NONPUBLIC SCHOOL MAY NOT CHARGE A STUDENT WHO IS ELIGIBLE FOR A REDUCED PRICE LUNCH FOR ANY PORTION OF THE COST OF THE MEAL.

7–603.

Each public school ***AND PARTICIPATING NONPUBLIC SCHOOL*** in this State shall provide a **[**program of subsidized or**]** free feeding **[**programs**]** **PROGRAM** for children who meet the standards adopted by the State Board under this subtitle.

7–604.

Funds appropriated for the **[**subsidized or**]** free feeding program shall be used to reimburse each county board ***AND PARTICIPATING NONPUBLIC SCHOOL*** for the difference between costs and all available reimbursements and other funds**[**, including the amounts paid by children**]**.

7–605.

(a) The General Assembly finds the following policies desirable in the administration and application of the school feeding **[**programs**]** **PROGRAM**:

(1) Private organizations and corporations should be encouraged to participate in the program;

(2) The identity of children who participate in **THE** free **[**or subsidized**]** feeding **[**programs**]** **PROGRAM** should remain anonymous and positive procedures should be adopted to accomplish this; and

(3) Applications for participants in the program should be brief and simple, based on a statement of present income and family size or of participation in a social services or welfare program.

(b) There may not be discrimination **[**among these programs**]** **IN THIS PROGRAM** for elementary, junior high, and high school students.

7–701.

(a) ***(1)*** The State Board shall require each county board to provide in each elementary school a free **[**and reduced price**]** breakfast, unless the school is exempted under § 7–702 of this subtitle.

(2) (I) A NONPUBLIC ELEMENTARY SCHOOL MAY PROVIDE A FREE BREAKFAST PROGRAM IN ACCORDANCE WITH THIS SUBTITLE.

(II) IF A NONPUBLIC ELEMENTARY SCHOOL PROVIDES A FREE BREAKFAST PROGRAM, THE PARTICIPATING NONPUBLIC ELEMENTARY SCHOOL SHALL BE ELIGIBLE FOR THE STATE REIMBURSEMENT OF THE STUDENT SHARE OF THE COSTS FOR THOSE BREAKFASTS UNDER § 7–703 OF THIS ARTICLE.

(b) The free **[**and reduced price**]** breakfast required to be provided under this section shall meet the standards of the United States Department of Agriculture.

7–702.

The State Superintendent shall exempt any elementary school from the requirements of this subtitle if:

(1) (i) The school has made a breakfast program available for at least 3 consecutive months; and

(ii) The participation is less than 25 percent of the number of students eligible for free and reduced price **ELIGIBLE** meals in each month;

(2) (i) The county board approves an alternative nutrition program that the school has instituted;

(ii) The school regularly conducts an assessment of the alternative program that provides evidence of success in achieving program objectives; and

(iii) The school submits an annual report of the assessment to the county board and the State;

(3) (i) The school requests an exemption for reasons of a compelling nature to the county board; and

(ii) After review and approval, the county board submits the request for exemption to the State Superintendent; or

(4) (i) The school has less than 15 percent of its enrollment approved for free and reduced price **ELIGIBLE** meals.

(ii) This exemption shall continue from year to year without the need for reapplication, until there is a 10 percent increase in the number of students approved for free and reduced price **ELIGIBLE** meals.

7–703.

(a) The free **[**and reduced price**]** breakfast program under this subtitle shall be suspended if the per meal reimbursement that the federal government provides for the breakfast program is:

(1) Reduced below the rate prescribed on July 1, **[**1979**] 2013**; or

(2) Adjusted by the Secretary of the United States Department of Agriculture, as of the most recent July 1 under the national Child Nutrition Act, and the per meal reimbursement is below the adjusted rate.

(b) The **STATE** reimbursement **TO A COUNTY BOARD OF EDUCATION OR A ~~NONPROFIT~~ *PARTICIPATING* NONPUBLIC SCHOOL** for each meal under subsection (a) of this section shall be determined as follows:

(1) Multiply the number of reduced price **ELIGIBLE** breakfasts served statewide times the **SUM OF THE** federal reimbursement rate for those breakfasts **PLUS THE STUDENT SHARE OF THE COST FOR THOSE BREAKFASTS**;

(2) Multiply the number of free breakfasts served statewide times the federal reimbursement rate for those breakfasts; and

(3) Divide the total of paragraphs (1) and (2) of this subsection by the total number of free and reduced price **ELIGIBLE** breakfasts.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2018.

May 25, 2018

The Honorable Thomas V. Mike Miller, Jr.
President of the Senate
H–107 State House
Annapolis, MD 21401

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed Senate Bill 741 – *Public Safety – Handgun Permit Review Board – Appeals.*

This bill alters the process by which a person who is denied a permit to wear, carry, or transport a handgun, or a renewal of such a permit, or whose permit is revoked or issued with restrictions by the Secretary of State Police, may appeal the decision to the Office of Administrative Hearings (OAH). By December 1, each year, the Handgun Permit Review Board within the Department of Public Safety and Correctional Services (DPSCS) must report to the Governor and the General Assembly on specified items relating to such appeals. The bill also makes the board subject to the Open Meetings Act.

House Bill 819, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign Senate Bill 741.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

Senate Bill 741

AN ACT concerning

Public Safety – Handgun Permit Review Board – ~~Repeal~~ Appeals

FOR the purpose of altering the process by which a person who is denied a certain handgun permit or renewal of a permit or whose permit is revoked or limited by the Secretary of State Police or the Secretary's designee may appeal the decision; ~~repealing provisions of law relating to the Handgun Permit Review Board;~~ providing that appeals from a certain decision by the Secretary or the Secretary's designee may be made to the ~~Office of Administrative Hearings~~ Handgun Permit Review Board in a certain manner; ~~providing that a person whose application for a certain permit or renewal of a permit is not acted on by the Secretary within a certain period may request a certain hearing before the Office of Administrative Hearings; making conforming changes;~~ requiring the Board to review a certain record and hold a

certain hearing within a certain period of time; requiring the Board to submit certain information to certain persons in writing within a certain period of time; providing for a de novo appeal of a certain decision by the Board to the Office of Administrative Hearings within a certain period of time; requiring the Office of Administrative Hearings to issue a certain finding of facts and a decision within a certain period of time; authorizing a certain person to appeal a certain decision to the circuit court; requiring the Board to make a certain annual report to the Governor and the General Assembly; providing that the Board is subject to a certain provision of law; and generally relating to handgun permits.

BY repealing and reenacting, ~~with~~ without amendments,
Article – Public Safety
Section 5–301 ~~and 5–312~~, 5–302, and 5–311
Annotated Code of Maryland
(2011 Replacement Volume and 2017 Supplement)

BY repealing and reenacting, with amendments,
Article – Public Safety
Section ~~5–302~~ 5–312
Annotated Code of Maryland
(2011 Replacement Volume and 2017 Supplement)

~~BY repealing and reenacting, without amendments,~~
~~Article – Public Safety~~
~~Section 5–311~~
~~Annotated Code of Maryland~~
~~(2011 Replacement Volume and 2017 Supplement)~~

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

Article – Public Safety

5–301.

(a) In this subtitle the following words have the meanings indicated.

~~[~~(b) "Board" means the Handgun Permit Review Board.~~]~~

~~[~~(c)~~]~~ ~~(B)~~ "Handgun" has the meaning stated in § 4–201 of the Criminal Law Article.

~~[~~(d)~~]~~ ~~(C)~~ "Permit" means a permit issued by the Secretary to carry, wear, or transport a handgun.

~~[~~(e)~~]~~ ~~(D)~~ "Qualified handgun instructor" has the meaning stated in § 5–101 of this title.

~~[~~(f)~~]~~ ~~(E)~~ "Secretary" means the Secretary of State Police or the Secretary's designee.

~~[~~5–302.

(a) There is a Handgun Permit Review Board in the Department of Public Safety and Correctional Services.

(b) The Board consists of five members appointed from the public by the Governor with the advice and consent of the Senate.

(c) (1) The term of a member is 3 years.

(2) The terms of the members are staggered as required by the terms provided for members of the Board on October 1, 2003.

(3) At the end of a term, a member continues to serve until a successor is appointed and qualifies.

(4) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.

(5) A member of the Board is eligible for reappointment.

(d) A member of the Board is entitled to:

(1) compensation in accordance with the State budget for each day that the member actually is engaged in the discharge of the member's official duties; and

(2) reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.~~]~~

5–311.

(a) A person who is denied a permit or renewal of a permit or whose permit is revoked or limited may request the Secretary to conduct an informal review by filing a written request within 10 days after receipt of written notice of the Secretary's initial action.

(b) An informal review:

(1) may include a personal interview of the person who requested the informal review; and

(2) is not subject to Title 10, Subtitle 2 of the State Government Article.

(c) In an informal review, the Secretary shall sustain, reverse, or modify the initial action taken and notify the person who requested the informal review of the decision in writing within 30 days after receipt of the request for informal review.

(d) A person need not file a request for an informal review under this section before requesting review under § 5–312 of this subtitle.

5–312.

(a) (1) A person who is denied a permit or renewal of a permit or whose permit is revoked or limited may request ~~[~~the Board to review~~]~~ ~~TO APPEAL~~ the decision of the Secretary ~~TO THE OFFICE OF ADMINISTRATIVE HEARINGS~~ by filing a written request with the ~~[~~Board~~]~~ ~~SECRETARY~~ within 10 days after receipt of written notice of the Secretary's final action.

(2) A person whose application for a permit or renewal of a permit is not acted on by the Secretary within 90 days after submitting the application to the Secretary may request a hearing before the ~~[~~Board~~]~~ ~~OFFICE OF ADMINISTRATIVE HEARINGS~~ by filing a written request with the ~~[~~Board~~]~~ ~~SECRETARY~~.

~~[~~(b) Within 90 days after receiving a request to review a decision of the Secretary, the Board shall:

(1) review the record developed by the Secretary; ~~or~~ **AND**

(2) conduct a hearing.

(c) The Board may receive and consider additional evidence submitted by a party in conducting a review of the decision of the Secretary.

(d) (1) Based on the Board's consideration of the record and any additional evidence, the Board shall sustain, reverse, or modify the decision of the Secretary.

(2) ~~If the action by the Board results in the denial of a permit or renewal of a permit or the revocation or limitation of a permit,~~ **WITHIN 60 DAYS AFTER THE LAST HEARING IN THE MATTER CONDUCTED BY THE BOARD,** the Board shall submit in writing to the applicant ~~or,~~ the holder of the permit**, AND THE SECRETARY** the reasons for the ~~action taken by~~ **DECISION OF** the Board.~~]~~

(E) (1) THE APPLICANT, THE HOLDER OF THE PERMIT, OR THE SECRETARY MAY APPEAL THE DECISION OF THE BOARD TO THE OFFICE OF ADMINISTRATIVE HEARINGS WITHIN 30 DAYS AFTER THE ISSUANCE OF THE BOARD'S REASONS UNDER SUBSECTION (D)(2) OF THIS SECTION.

(2) WITHIN 60 DAYS AFTER THE RECEIPT OF A REQUEST FROM THE APPLICANT, THE HOLDER OF THE PERMIT, OR THE SECRETARY, THE OFFICE OF ADMINISTRATIVE HEARINGS SHALL SCHEDULE AND CONDUCT A DE NOVO HEARING ON THE APPEAL, AT WHICH WITNESS TESTIMONY AND OTHER EVIDENCE MAY BE PROVIDED.

(3) WITHIN 90 DAYS AFTER THE CONCLUSION OF THE LAST HEARING ON THE MATTER, THE OFFICE OF ADMINISTRATIVE HEARINGS SHALL ISSUE A FINDING OF FACTS AND A DECISION.

(4) A PARTY THAT IS AGGRIEVED BY THE DECISION OF THE OFFICE OF ADMINISTRATIVE HEARINGS MAY APPEAL THE DECISION TO THE CIRCUIT COURT.

[(e)**]** ~~**(B)**~~ **(F)** (1) ~~Any~~ **SUBJECT TO SUBSECTIONS (D) AND (E) OF THIS SECTION, ANY** hearing and any subsequent proceedings of judicial review shall be conducted in accordance with Title 10, Subtitle 2 of the State Government Article.

(2) Notwithstanding paragraph (1) of this subsection, a court may not order the issuance or renewal of a permit or alter a limitation on a permit pending a final determination of the proceeding.

(G) ON OR BEFORE DECEMBER 1 EACH YEAR, THE BOARD SHALL REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY:

(1) THE NUMBER OF APPEALS OF DECISIONS BY THE SECRETARY THAT HAVE BEEN FILED WITH THE BOARD WITHIN THE PREVIOUS YEAR;

(2) THE NUMBER OF DECISIONS BY THE SECRETARY THAT HAVE BEEN SUSTAINED, MODIFIED, OR REVERSED BY THE BOARD WITHIN THE PREVIOUS YEAR;

(3) THE NUMBER OF APPEALS THAT ARE PENDING; AND

(4) THE NUMBER OF APPEALS THAT HAVE BEEN WITHDRAWN WITHIN THE PREVIOUS YEAR.

(H) THE BOARD IS SUBJECT TO TITLE 3 (OPEN MEETINGS ACT) OF THE GENERAL PROVISIONS ARTICLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2018.

May 25, 2018

The Honorable Thomas V. Mike Miller, Jr.
President of the Senate
H–107 State House
Annapolis, MD 21401

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed Senate Bill 792 – *Commercial Insurance – Insurance Producers – Commissions.*

This bill expressly authorizes a property and casualty insurer to pay commissions to a licensed insurance producer on a variable basis on policies issued to a qualified exempt commercial policyholder if doing so results in a lower total cost of the policy to the qualified exempt commercial policyholder; and, the insurance producer has agreed to the specific level of commission to be paid under the policy. The bill applies to all policies of commercial insurance offered, sold, or issued in the State on or after October 1, 2018.

House Bill 1078, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign Senate Bill 792.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

Senate Bill 792

AN ACT concerning

Commercial Insurance – Insurance Producers – Commissions

FOR the purpose of providing that an insurer is not prohibited from paying certain commissions ~~under commercial insurance policies~~ to licensed insurance producers under commercial insurance policies issued to certain exempt commercial policyholders in a certain manner under certain circumstances; making a technical change; providing for the application of this Act; and generally relating to commissions paid to insurance producers under commercial insurance policies.

BY repealing and reenacting, without amendments,
Article – Insurance
Section 27–212(e), 27–216(a) and (b)(1), and 27–601(a) and (b)
Annotated Code of Maryland

(2017 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – Insurance
Section 27–212(f) and 27–216(b)(2)
Annotated Code of Maryland
(2017 Replacement Volume)

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

Article – Insurance

27–212.

(e) (1) An insurer may not make or allow unfair discrimination between insureds or properties having like insuring or risk characteristics in:

(i) the premium or rates charged for insurance;

(ii) the dividends or other benefits payable on the insurance; or

(iii) any of the other terms or conditions of the insurance.

(2) Notwithstanding any other provision of this section, an insurer may not make or allow a differential in ratings, premium payments, or dividends for a reason based on the sex, physical handicap, or disability of an applicant or policyholder unless there is actuarial justification for the differential.

(f) This section does not prohibit an insurer from:

(1) paying commissions or other compensation to licensed insurance producers;

~~**(2) PAYING COMMISSIONS UNDER POLICIES OF COMMERCIAL INSURANCE, AS DEFINED IN § 27–601 OF THIS TITLE, TO LICENSED INSURANCE PRODUCERS ON A VARIABLE BASIS IF:**~~

~~**(I) THE PAYMENT IS MADE UNDER THE TERMS OF A COMMISSION EXPENSE REDUCTION PLAN FILED WITH AND APPROVED BY THE COMMISSIONER UNDER THE APPLICABLE RATING MANUAL; AND**~~

~~**(II) THE INSURANCE PRODUCER HAS AGREED TO THE PARTICULAR LEVEL OF COMMISSION TO BE PAID UNDER THE POLICY;** or~~

(2) PAYING COMMISSIONS TO LICENSED INSURANCE PRODUCERS ON A VARIABLE BASIS ON POLICIES ISSUED TO QUALIFIED EXEMPT COMMERCIAL POLICYHOLDERS, AS DEFINED IN § 11–206 OF THIS ARTICLE, IF:

(I) THE PAYMENT OF THE COMMISSION TO THE INSURANCE PRODUCER ON A VARIABLE BASIS RESULTS IN A LOWER TOTAL COST OF THE POLICY TO THE QUALIFIED EXEMPT COMMERCIAL POLICYHOLDER; AND

(II) THE INSURANCE PRODUCER RECEIVING THE COMMISSION HAS AGREED TO THE SPECIFIC LEVEL OF COMMISSION TO BE PAID ON THE POLICY; or

[(2)**] (3)** allowing or returning to its participating policyholders, members, or subscribers lawful dividends, savings, or unabsorbed premium deposits.

27–216.

(a) A person may not willfully collect a premium or charge for insurance if the insurance is not then provided, or is not in due course to be provided subject to acceptance of the risk by the insurer, in a policy issued by an insurer as authorized by this article.

(b) (1) A person may not willfully collect a premium or charge for insurance that:

(i) exceeds or is less than the premium or charge applicable to that insurance under the applicable classifications and rates as filed with and approved by the Commissioner; or

(ii) if classifications, premiums, or rates are not required by this article to be filed with and approved by the Commissioner, exceeds or is less than the premium or charge specified in the policy and set by the insurer.

(2) Paragraph (1) of this subsection does not prohibit:

(i) a surplus lines broker that holds a certificate of qualification under Title 3, Subtitle 3 of this article from charging and collecting applicable State and federal taxes in addition to the required premium;

(ii) a life insurer from charging and collecting the amount actually expended for a medical examination of an applicant for life insurance or reinstatement of a policy of life insurance;

(iii) an insurance producer from charging a fee, not exceeding 15% of the premium, for services rendered in **[**replacing**]** **PLACING** insurance in an insurer if commissions are not payable by the insurer;

~~(IV) AN INSURER FROM PAYING COMMISSIONS UNDER POLICIES OF COMMERCIAL INSURANCE, AS DEFINED IN § 27–601 OF THIS TITLE, TO LICENSED INSURANCE PRODUCERS ON A VARIABLE BASIS IF:~~

~~1. THE PAYMENT IS MADE UNDER THE TERMS OF A COMMISSION EXPENSE REDUCTION PLAN FILED WITH AND APPROVED BY THE COMMISSIONER UNDER THE APPLICABLE RATING MANUAL; AND~~

~~2. THE INSURANCE PRODUCER HAS AGREED TO THE PARTICULAR LEVEL OF COMMISSION TO BE PAID UNDER THE POLICY; or~~

(IV) AN INSURER FROM PAYING COMMISSIONS TO LICENSED INSURANCE PRODUCERS ON A VARIABLE BASIS ON POLICIES ISSUED TO QUALIFIED EXEMPT COMMERCIAL POLICYHOLDERS, AS DEFINED IN § 11–206 OF THIS ARTICLE, IF:

1. THE PAYMENT OF THE COMMISSION TO THE INSURANCE PRODUCER ON A VARIABLE BASIS RESULTS IN A LOWER TOTAL COST OF THE POLICY TO THE QUALIFIED EXEMPT POLICYHOLDER; AND

2. THE INSURANCE PRODUCER RECEIVING THE COMMISSION HAS AGREED TO THE SPECIFIC LEVEL OF COMMISSION TO BE PAID ON THE POLICY; or

[(iv)**] (V)** a fund producer from charging and collecting, as actual expenses incurred in placing automobile insurance with the Maryland Automobile Insurance Fund:

1. a maximum charge of $25 plus $1 more than the actual charge by the Motor Vehicle Administration for a driving record required to be presented with the application, unless otherwise provided by the Fund; or

2. the amount provided in subsection (e) of this section.

27–601.

(a) In this subtitle the following words have the meanings indicated.

(b) (1) "Commercial insurance" means property insurance or casualty insurance issued to an individual, a sole proprietor, partnership, corporation, limited liability company, or similar entity and intended to insure against loss arising from the business pursuits of the insured entity.

(2) "Commercial insurance" does not include:

(i) policies issued by the Maryland Automobile Insurance Fund;

(ii) policies issued by the Joint Insurance Association;

(iii) workers' compensation insurance; or

(iv) title insurance.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to all policies of commercial insurance offered, sold, or issued in the State on or after October 1, 2018.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2018.

May 25, 2018

The Honorable Thomas V. Mike Miller, Jr.
President of the Senate
H–107 State House
Annapolis, MD 21401

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed Senate Bill 802 – *Baltimore City – Alcoholic Beverages – Continuing Care Retirement Community License.*

This bill authorizes the Baltimore City Board of License Commissioners to issue a continuing care retirement community license. The license authorizes the license holder to sell beer, wine, and liquor for on–premises consumption to a resident or the guest of a resident of the continuing care retirement community. The annual license fee is $550. If a license holder provides live entertainment and/or outdoor table service, an additional fee is required of $500 and $200 respectively.

House Bill 245, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign Senate Bill 802.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

Senate Bill 802

AN ACT concerning

Baltimore City – Alcoholic Beverages – Continuing Care Retirement Community License

FOR the purpose of establishing a continuing care retirement community license in Baltimore City; authorizing the Board of License Commissioners to issue the license for use by a continuing care retirement community that is located in a certain area of the City and that has obtained a certain certificate of registration; specifying that the license authorizes the holder to sell beer, wine, and liquor to a community resident or the guest of a resident for on–premises consumption; allowing a resident or the guest of a resident under certain circumstances to consume beer, wine, or liquor not purchased from the community; establishing certain license fees; and generally relating to a continuing care retirement community license in Baltimore City.

BY renumbering
Article – Alcoholic Beverages
Section 12–1001.1
to be Section 12–1001.2
Annotated Code of Maryland
(2016 Volume and 2017 Supplement)

BY repealing and reenacting, without amendments,
Article – Alcoholic Beverages
Section 12–102
Annotated Code of Maryland
(2016 Volume and 2017 Supplement)

BY adding to
Article – Alcoholic Beverages
Section 12–1001.1
Annotated Code of Maryland
(2016 Volume and 2017 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 12–1001.1 of Article – Alcoholic Beverages of the Annotated Code of Maryland be renumbered to be Section(s) 12–1001.2.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Alcoholic Beverages

12–102.

This title applies only in Baltimore City.

12–1001.1.

(A) THERE IS A CONTINUING CARE RETIREMENT COMMUNITY LICENSE.

(B) THE BOARD MAY ISSUE THE LICENSE FOR USE BY A CONTINUING CARE RETIREMENT COMMUNITY THAT:

(1) IS LOCATED IN THE 41ST ALCOHOLIC BEVERAGES DISTRICT; AND

(2) HAS OBTAINED A CERTIFICATE OF REGISTRATION FROM THE DEPARTMENT OF AGING UNDER TITLE 10, SUBTITLE 4 OF THE HUMAN SERVICES ARTICLE.

(C) THE LICENSE AUTHORIZES THE LICENSE HOLDER TO SELL BEER, WINE, AND LIQUOR FOR ON–PREMISES CONSUMPTION TO A RESIDENT OR THE GUEST OF A RESIDENT OF THE CONTINUING CARE RETIREMENT COMMUNITY.

(D) A RESIDENT OR THE GUEST OF A RESIDENT OF THE CONTINUING CARE RETIREMENT COMMUNITY MAY CONSUME BEER, WINE, OR LIQUOR NOT PURCHASED FROM THE CONTINUING CARE RETIREMENT COMMUNITY IF:

(1) THE BEER, WINE, OR LIQUOR IS CONSUMED WITH A MEAL IN THE DINING ROOM OR AT A BAR OPERATED BY THE CONTINUING CARE RETIREMENT COMMUNITY; AND

(2) THE CONTINUING CARE RETIREMENT COMMUNITY:

(I) IS OPERATED BY A NONPROFIT ORGANIZATION FOR INDIVIDUALS AT LEAST 60 YEARS OLD;

(II) HAS BEEN INCORPORATED FOR A LEAST 1 YEAR; AND

(III) PREPARES AND SERVES MEALS DURING REGULAR OPERATING HOURS TO RESIDENTS AND THEIR GUESTS.

(E) (1) THE ANNUAL LICENSE FEE IS $550.

(2) IN ADDITION TO THE ANNUAL LICENSE FEE, THE LICENSE HOLDER SHALL PAY ANNUALLY:

(I) $500, IF THE LICENSE HOLDER PROVIDES LIVE

ENTERTAINMENT; AND

(II) $200, IF THE LICENSE HOLDER PROVIDES OUTDOOR TABLE SERVICE.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2018.

May 25, 2018

The Honorable Thomas V. Mike Miller
President of the Senate
State House
Annapolis, MD 21401

The Honorable Michael E. Busch
Speaker of the House
State House
Annapolis, MD 21401

Dear Mr. President and Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed Senate Bill 838/House Bill 891 – *Criminal Procedure – Coram Nobis – Time for Filing*.

The opportunity for someone to make amends and rebuild after committing a crime is an important part of any just and restorative criminal justice system. Over the past several years, working together with the General Assembly, we have been able to shield certain low–level criminal offenses, create a process for certificates of rehabilitation to improve employment prospects of ex–offenders, and dramatically expand expungement opportunities for misdemeanor offenses. Additionally, just last month, I signed unprecedented legislation to expand the ability to expunge a criminal record to certain nonviolent felonies.

Senate Bill 838/House Bill 891, however, provides an avenue for repeat violent offenders to eschew consequences of their previous and potentially violent crimes. I would more favorably consider legislation that seeks to expand *coram nobis* in a way that improves post–conviction relief for individuals with low–level or nonviolent offenses but prevents repeat, violent offenders from taking advantage of the loophole this legislation could create. Had the General Assembly adopted language along the lines of the amendment proposed in the Senate and limited the additional time to file a writ to a misdemeanor or less serious convictions, the legislation would have struck a better balance (Senator Cassilly, 623022/1).

A writ of error *coram nobis* is a legal proceeding in which an individual who has completed their incarceration, probation and/or parole can file for relief if there was a fundamental error with the conviction and they now face significant collateral consequences as a result of the conviction. *Coram nobis* serves the laudable purpose of ensuring that a defendant can challenge a conviction for alleged defects of which the defendant was unaware.

Current law correctly holds that once a defendant becomes aware of the defect, the time for the defendant to challenge a conviction begins to run. If the defendant waits too long to bring the writ, a court can bar the action. This strikes the proper balance of ensuring convictions are properly obtained while providing an element of certainty to victims that there will be finality and closure.

Senate Bill 838/House Bill 891 disrupts this balance. The legislation allows a defendant who knows of an error to do nothing until faced with a collateral consequence, unnecessarily delaying a challenge in a manner that can only benefit the defendant. By allowing an offender to file a writ of error *coram nobis* for up to three years after he knew or should have known he faced a collateral consequence as opposed to when he knew of the facts underlying the alleged error, Senate Bill 838/House Bill 891 allows an offender to file a writ of error *coram nobis* decades after the original conviction. As a result of this lengthy delay, witnesses or evidence may have been lost or no longer available, which will mean in some cases that a retrial is difficult, if not impossible, and a guilty defendant's conviction will be overturned.

One consequence is that repeat, violent offenders may be able to avoid enhanced penalties for a subsequent crime by using the writ of error *coram nobis* to overturn an earlier violent conviction. In a request to veto the legislation, the Baltimore County State's Attorney on behalf of the Maryland State's Attorney's Association, cites an instance of a violent defendant attempting to use *coram nobis* to undo a conviction that forms the basis of his life without parole sentence. Equally troubling, victims may no longer be accessible, making it impossible for them to be notified of the proceedings. As the Maryland Crime Victims' Resource Center states in their veto request, "The current justice system already significantly traumatizes victims. To avoid adding insult to injury to victims by further and unnecessarily re–harming victims, your veto eliminates additional trauma that would result if the bill became law."

Senate Bill 838/House Bill 891 would skew the process to favor offenders who may be seeking *coram nobis* relief because they face additional consequences due to their status as a repeat, and sometimes violent, offender. For that reason, I have vetoed Senate Bill 838 and House Bill 891.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

Senate Bill 838

AN ACT concerning

Criminal Procedure – Coram Nobis – Time for Filing

FOR the purpose of providing that a petition for writ of error coram nobis may not be filed more than a certain amount of time after the petitioner knew or should have known about a certain consequence, with a certain exception; and generally relating to coram nobis.

BY repealing and reenacting, with amendments,
Article – Criminal Procedure
Section 8–401
Annotated Code of Maryland
(2008 Replacement Volume and 2017 Supplement)

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

Article – Criminal Procedure

8–401.

(A) The failure to seek an appeal in a criminal case may not be construed as a waiver of the right to file a petition for writ of error coram nobis.

(B) UNLESS GOOD CAUSE IS SHOWN, A PETITION FOR WRIT OF ERROR CORAM NOBIS MAY NOT BE FILED MORE THAN 3 YEARS AFTER THE PETITIONER KNEW OR SHOULD HAVE KNOWN THAT THE PETITIONER FACES A SIGNIFICANT COLLATERAL CONSEQUENCE FROM THE CONVICTION THAT IS THE BASIS FOR THE PETITION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2018.

May 25, 2018

The Honorable Thomas V. Mike Miller, Jr.
President of the Senate
H–107 State House
Annapolis, MD 21401

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed Senate Bill 889 – *Washington County – Public Facilities Bonds.*

This bill authorizes the Washington County Commissioners to issue up to $70.0 million in general obligation (GO) bonds for the acquisition, construction, improvement, or renovation of public buildings, facilities, and public works projects. The date of maturity of the bonds cannot exceed 30 years.

House Bill 1321, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign Senate Bill 889.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

Senate Bill 889

AN ACT concerning

Washington County – Public Facilities Bonds

FOR the purpose of authorizing and empowering the County Commissioners of Washington County, from time to time, to borrow not more than $70,000,000 in order to finance the costs of the construction, improvement, or development of certain public facilities in Washington County, as herein defined, and to effect such borrowing by the issuance and sale at public or private sale of its general obligation bonds in like par amount; empowering the County to fix and determine, by resolution, the form, tenor, interest rate or rates or method of determining the same, terms, conditions, maturities, and all other details incident to the issuance and sale of the bonds; empowering the County to issue refunding bonds for the purchase or redemption of bonds in advance of maturity; empowering and directing the County to levy, impose, and collect, annually, ad valorem taxes in rate and amount sufficient to provide funds for the payment of the maturing principal of and interest on the bonds; exempting the bonds and refunding bonds, and the interest thereon and any income derived therefrom, from all State, county, municipal, and other taxation in the State of Maryland; providing that nothing in this Act shall prevent the County from authorizing the issuance and sale of bonds the interest on which is not excludable from gross income for federal income tax purposes; providing that such borrowing may be undertaken by the County in the form of installment purchase obligations executed and delivered by the County for the purpose of acquiring agricultural land, woodland preservation easements, and transferable development rights; and relating generally to the issuance and sale of such bonds.

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That, as used herein, the term "County" means the body politic and corporate of the State of Maryland known as the County Commissioners of Washington County, and the term "construction, improvement, or development of public facilities" means the acquisition, alteration, construction, reconstruction, enlargement, equipping, expansion, extension, improvement, rehabilitation, renovation, upgrading, and repair of public buildings and facilities and public works projects, including, but not limited to, the following, together with related architectural, financial, legal, planning, or engineering services:

(a) Public school buildings, a school for the arts, administrative facilities, sites, and grounds;

(b) Community college buildings, sites, and grounds;

(c) Buildings and facilities for public safety, health and social services, libraries, County administration purposes, County airport purposes, refuse collection, recycling or disposal by whatever means, and park and recreation purposes;

(d) Acquisition of land or interests in land and any improvement thereon; and

(e) Easements or similar or related rights in land, including transferable development rights, that restrict the use of agricultural land or woodland to maintain the character of the land as agricultural land or woodland.

SECTION 2. AND BE IT FURTHER ENACTED, That the County is hereby authorized to finance any part or all of the costs of the facilities described in Section 1 of this Act, and to borrow money and incur indebtedness for that purpose, at one time or from time to time, in an amount not exceeding, in the aggregate, $70,000,000 and to evidence such borrowing by the issuance and sale upon its full faith and credit of general obligation bonds in like par amount, which may be issued at one time or from time to time, in one or more groups or series, as the County may determine.

SECTION 3. AND BE IT FURTHER ENACTED, That the bonds shall be issued in accordance with a resolution of the County, which shall describe generally the construction, improvement, or development of public facilities for which the proceeds of the bond sale are intended and the amount needed for those purposes. The County shall have and is hereby granted full and complete authority and discretion in the resolution to fix and determine with respect to the bonds of any issue: the designation, date of issue, denomination or denominations, form or forms, and tenor of the bonds which, without limitation, may be issued in registered form within the meaning of § 19–204 of the Local Government Article, as amended; the rate or rates of interest payable thereon, or the method of determining the same, which may include a variable rate; the date or dates and amount or amounts of maturity, which need not be in equal par amounts or in consecutive annual installments, provided only that no bond of any issue shall mature later than 30 years from the date of its issue; the manner of selling the bonds, which may be at either public or private sale, for such price or prices as may be determined to be for the best interests of the County; the

manner of executing and sealing the bonds, which may be by facsimile; the terms and conditions, if any, under which bonds may be tendered for payment or purchase prior to their stated maturity; the terms or conditions, if any, under which bonds may or shall be redeemed prior to their stated maturity; the place or places of payment of the principal of and the interest on the bonds, which may be at any bank or trust company within or without the State of Maryland; covenants relating to compliance with applicable requirements of federal income tax law, including (without limitation) covenants regarding the payment of rebate or penalties in lieu of rebate; covenants relating to compliance with applicable requirements of federal or state securities laws; and generally all matters incident to the terms, conditions, issuance, sale, and delivery thereof.

The bonds may be made redeemable before maturity, at the option of the County, at such price or prices and under such terms and conditions as may be fixed by the County prior to the issuance of the bonds, either in the resolution or in subsequent resolutions. In case any officer whose signature appears on any bond ceases to be such officer before the delivery thereof, such signature shall nevertheless be valid and sufficient for all purposes as if he had remained in office until such delivery. The bonds and the issuance and sale thereof shall be exempt from the provisions of §§ 19–205 and 19–206 of the Local Government Article, as amended.

The County may enter into agreements with agents, banks, fiduciaries, insurers, or others for the purpose of enhancing the marketability of any security for the bonds and for the purpose of securing any tender option that may be granted to holders of the bonds, all as may be determined and presented in the aforesaid resolution, which may (but need not) state as security for the performance by the County of any monetary obligations under such agreements the same security given by the County to bondholders for the performance by the County of its monetary obligations under the bonds. If the County determines in the resolution to offer any of the bonds by solicitation of competitive bids at public sale, the resolution shall fix the terms and conditions of the public sale and shall adopt a form of notice of sale, which shall outline the terms and conditions, including the manner of receipt of bids, and a form of advertisement. At least one publication of the advertisement shall be made not less than 10 days before the sale of the bonds.

Upon delivery of any bonds to the purchaser or purchasers, payment therefor shall be made to the Treasurer of Washington County or such other official of the County as may be designated to receive such payment in a resolution passed by the County Commissioners of Washington County before such delivery. For purposes of issuance and sale, bonds authorized hereunder may be consolidated into a single issue with any other bonds authorized to be issued by the County.

SECTION 4. AND BE IT FURTHER ENACTED, That the net proceeds of the sale of bonds shall be used and applied exclusively and solely for the acquisition, construction, improvement, or development of public facilities for which the bonds are sold. If the amounts borrowed shall prove inadequate to finance the projects described in the resolution, the County may issue additional bonds within the limitations hereof for the purpose of evidencing the borrowing of additional funds for such financing, provided the resolution authorizing the sale of additional bonds shall so recite, but if the net proceeds of

the sale of any issue of bonds exceeds the amount needed to finance the projects described in the resolution, the excess funds so borrowed and not expended shall be applied to the payment of the next principal maturity of the bonds or to the redemption of any part of the bonds which have been made redeemable or to the purchase and cancellation of bonds, unless the County shall adopt a resolution allocating the excess funds to the acquisition, construction, improvement, or development of other public facilities, as defined and within the limits set forth in this Act.

SECTION 5. AND BE IT FURTHER ENACTED, That the bonds hereby authorized shall constitute, and they shall so recite, an irrevocable pledge of the full faith and credit and unlimited taxing power of the County to the payment of the maturing principal of and interest on the bonds as and when they become payable. In each and every fiscal year that any of the bonds are outstanding, the County shall levy or cause to be levied ad valorem taxes upon all the assessable property within the corporate limits of Washington County in rate and amount sufficient to provide for or assure the payment, when due, of the principal of and interest on all the bonds maturing in each such fiscal year and, in the event the proceeds from the taxes so levied in any such fiscal year shall prove inadequate for such payment, additional taxes shall be levied in the succeeding fiscal year to make up any such deficiency. The County may apply to the payment of the principal of and interest on any bonds issued hereunder any funds received by it from the State of Maryland, the United States of America, any agency or instrumentality thereof, or from any other source, if such funds are granted for the purpose of assisting the County in financing the acquisition, construction, improvement, or development of the public facilities defined in this Act and, to the extent of any such funds received or receivable in any fiscal year, the taxes that are required to be levied may be reduced accordingly.

SECTION 6. AND BE IT FURTHER ENACTED, That the County is further authorized and empowered, at any time and from time to time, to issue its bonds in the manner hereinabove described for the purpose of refunding, by payment at maturity or upon purchase or redemption, any bonds issued hereunder. The validity of any such refunding bonds shall in no way be dependent upon or related to the validity or invalidity of the obligations so refunded. The powers herein granted with respect to the issuance of bonds shall be applicable to the issuance of refunding bonds. Such refunding bonds may be issued by the County for the purpose of providing it with funds to pay any of its outstanding bonds issued hereunder at maturity, for the purpose of providing it with funds to purchase in the open market any of its outstanding bonds issued hereunder, prior to the maturity thereof, or for the purpose of providing it with funds for the redemption prior to maturity of any outstanding bonds issued hereunder which are, by their terms, redeemable, for the purpose of providing it with funds to pay interest on any outstanding bonds issued hereunder prior to their payment at maturity of purchase or redemption in advance of maturity, or for the purpose of providing it with funds to pay any redemption or purchase premium in connection with the refunding of any of its outstanding bonds issued hereunder. The proceeds of the sale of any such refunding bonds shall be segregated and set apart by the County as a separate trust fund to be used solely for the purpose of paying the purchase or redemption prices of the bonds to be refunded.

SECTION 7. AND BE IT FURTHER ENACTED, That the County may, prior to the

preparation of definitive bonds, issue interim certificates or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds have been executed and are available for such delivery, provided, however, that any such interim certificates or temporary bonds shall be issued in all respects subject to the restrictions and requirements set forth in this Act. The County may, by appropriate resolution, provide for the replacement of any bonds issued hereunder which shall have become mutilated or lost or destroyed upon such conditions and after receiving such indemnity as the County may require.

SECTION 8. AND BE IT FURTHER ENACTED, That any and all obligations issued pursuant to the authority of this Act, their transfer, the interest payable thereon, and any income derived therefrom in the hands of the holders thereof from time to time (including any profit made in the sale thereof) shall be and are hereby declared to be at all times exempt from State, county, municipal, or other taxation of every kind and nature whatsoever within the State of Maryland.

Nothing in this Act shall prevent the County from authorizing the issuance and sale of bonds the interest on which is not excludable from gross income for federal income tax purposes.

SECTION 9. AND BE IT FURTHER ENACTED, That the authority to borrow money and issue bonds conferred on the County by this Act shall be deemed to provide an additional and alternative authority for borrowing money and shall be regarded as supplemental and additional to powers conferred upon the County by other laws and shall not be regarded as in derogation of any power now existing; and all Acts of the General Assembly of Maryland heretofore passed authorizing the County to borrow money are hereby continued to the extent that the powers contained in such Acts have not been exercised, and nothing contained in this Act may be construed to impair, in any way, the validity of any bonds that may have been issued by the County under the authority of any said Acts, and the validity of the bonds is hereby ratified, confirmed, and approved. This Act, being necessary for the welfare of the inhabitants of Washington County, shall be liberally construed to effect the purposes hereof. All Acts and parts of Acts inconsistent with the provisions of this Act are hereby repealed to the extent of such inconsistency.

SECTION 10. AND BE IT FURTHER ENACTED, That the borrowing authorized by this Act may also be undertaken by the County in the form of installment purchase obligations executed and delivered by the County for the purpose of acquiring easements or similar or related rights in land, including transferable development rights, that restrict the use of agricultural land or woodland to maintain the character of the land as agricultural land or woodland. The form of installment purchase obligations, the manner of accomplishing the acquisition of easements, which may be by the direct exchange of installment purchase obligations for easements or transferable development rights, and all matters incident to the execution and delivery of the installment purchase obligations and acquisition of the easements or transferable development rights by the County shall be determined in the resolution. Except where the provisions of this Act would be inapplicable to installment purchase obligations, the term "bonds" used in this Act shall include installment purchase obligations and matters pertaining to the bonds under this Act, such

as the security for the payment of the bonds, the exemption of the bonds from State, county, municipal, or other taxation, and authorization to issue refunding bonds and the limitation on the aggregate principal amount of bonds authorized for issuance, shall be applicable to installment purchase obligations.

SECTION 11. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2018.

May 25, 2018

The Honorable Thomas V. Mike Miller, Jr.
President of the Senate
H–107 State House
Annapolis, MD 21401

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed Senate Bill 1079 – *Pharmacy Benefits Managers – Revisions.*

This bill imposes specified requirements and prohibitions on pharmacy benefits managers (PBMs) related to reimbursement for pharmacy services and maximum allowable cost (MAC) lists. The Insurance Commissioner is authorized to adopt regulations to govern PBMs and to establish a complaint process to address specified grievances and appeals.

House Bill 1349, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign Senate Bill 1079.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

Senate Bill 1079

AN ACT concerning

Pharmacy Benefits Managers – Revisions

FOR the purpose of ~~altering the application fee for a pharmacy benefits manager to register with the Maryland Insurance Commissioner; requiring a pharmacy benefits manager applying to register to file a certain financial statement with the~~

~~Commissioner;~~ authorizing the Maryland Insurance Commissioner to require certain additional information from a pharmacy benefits manager in a certain application; ~~altering the date on which the registration of a pharmacy benefits manager expires unless the registration is renewed; altering the length of the term for which a pharmacy benefits manager may renew a certain registration; altering the circumstances under which a pharmacy benefits manager may renew a registration; authorizing the Commissioner to impose certain fees under certain circumstances;~~ authorizing the Commissioner to require certain information or certain submissions from a pharmacy benefits manager for a certain purpose; ~~authorizing a pharmacy benefits manager to pay a certain fee in lieu of a certain suspension under certain circumstances; authorizing a pharmacy benefits manager to reapply for a registration under certain circumstances;~~ clarifying that certain actions of the Commissioner are subject to certain hearing provisions; providing that a certain provision prohibiting reimbursements in a certain amount does not apply to reimbursement for certain drugs or to certain chain pharmacies; prohibiting ~~certain reimbursement from~~ a pharmacy benefits manager ~~to~~ from reimbursing a pharmacy or pharmacist for a certain product or certain service in a certain amount; ~~prohibiting a pharmacy benefits manager from prohibiting a pharmacy or pharmacist from providing a beneficiary with certain information regarding a certain retail price or certain cost–share for a prescription drug; prohibiting a pharmacy benefits manager from prohibiting a pharmacy or pharmacist from discussing with a beneficiary a certain retail price or certain cost–share for a prescription drug; prohibiting a pharmacy benefits manager from prohibiting a pharmacy or pharmacist from selling a certain alternative prescription drug under certain circumstances; prohibiting a pharmacy benefits manager from prohibiting a pharmacy or pharmacist from offering and providing store direct delivery services as an ancillary service of the pharmacy; requiring each contract between a pharmacy benefits manager and a contracted pharmacy to include the methodology used to determine maximum allowable cost pricing; requiring a pharmacy benefits manager to disclose certain information to a contracted pharmacy under certain circumstances; requiring a pharmacy benefits manager to provide a certain means on its website by which certain contracted pharmacies may promptly review certain pricing updates, to use certain pricing information to calculate certain payments, and to disclose certain information in certain contracts; requiring a pharmacy benefits manager to disclose a certain maximum allowable cost list under certain circumstances;~~ requiring a pharmacy benefits manager to establish a certain process by which a certain pharmacy has access to certain maximum allowable cost price lists in a certain format as updated in accordance with certain requirements; requiring a pharmacy benefits manager to use updated pricing information in calculating certain payments immediately after a certain update; altering a certain procedure that a pharmacy benefits manager is required to maintain; altering certain requirements that a pharmacy benefits manager must meet before placing a prescription drug on a certain list; ~~prohibiting a pharmacy benefits manager from setting a maximum allowable cost for certain drugs, products, and devices that are placed on a certain list that is below a certain amount;~~ altering a certain process that must be included in each contract between a pharmacy benefits manager and a contracted pharmacy; ~~authorizing a contracted pharmacy to file a certain complaint~~

~~with the Commissioner; requiring a contracted pharmacy to exhaust a certain appeal process before filing a certain complaint; requiring the Commissioner to hold a certain hearing and issue a certain order in accordance with certain procedures; providing that an appeal of a certain order may be taken in accordance with certain statutory provisions;~~ prohibiting a pharmacy benefits manager from retaliating against a contracted pharmacy for exercising a certain right to appeal or filing a certain complaint; prohibiting a pharmacy benefits manager from charging a contracted pharmacy a certain fee; ~~establishing a certain civil penalty for a violation of certain provisions of this Act;~~ requiring the Commission to review a certain compensation program for a certain purpose and take certain action on appeal and order a pharmacy benefits manager to pay a certain claim under certain circumstances; providing that certain information is considered to be confidential and proprietary information and is not subject to disclosure under certain provisions of law; authorizing the Commissioner, under certain circumstances, to issue an order that requires a pharmacy benefits manager to pay a certain fine; authorizing the Commissioner to adopt certain regulations and establish a certain complaint process; defining a certain term; altering a certain definition; providing for the construction of certain provisions of this Act; providing for the application of this Act; ~~providing for a delayed effective date;~~ and generally relating to pharmacy benefits managers.

BY repealing and reenacting, with amendments,
Article – Insurance
Section 15–1604, 15–1605, 15–1607, 15–1628.1, and ~~15–1642(c)~~ 15–1642
Annotated Code of Maryland
(2017 Replacement Volume)

BY adding to
Article – Insurance
Section 15–1611~~, 15–1612, and 15–1612.1~~
Annotated Code of Maryland
(2017 Replacement Volume)

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

Article – Insurance

15–1604.

(a) A pharmacy benefits manager shall register with the Commissioner as a pharmacy benefits manager before providing pharmacy benefits management services in the State to purchasers.

(b) An applicant for registration shall:

(1) file with the Commissioner an application on the form that the Commissioner provides; ~~[~~and~~]~~

(2) pay to the Commissioner a registration fee ~~[~~set by the Commissioner~~]~~ ~~OF $1,000; AND~~

~~(3) FILE WITH THE COMMISSIONER A FINANCIAL STATEMENT, CERTIFIED BY A CERTIFIED PUBLIC ACCOUNTANT WITHIN THE IMMEDIATELY PRECEDING 6 MONTHS, THAT PRESENTS, IN ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES, THE FINANCIAL POSITION OF THE APPLICANT AND CONTAINS THE INFORMATION THAT THE COMMISSIONER REQUIRES~~.

(C) THE COMMISSIONER MAY REQUIRE ANY ADDITIONAL INFORMATION OR SUBMISSIONS FROM A PHARMACY BENEFITS MANAGER THAT MAY BE REASONABLY NECESSARY TO VERIFY THE INFORMATION CONTAINED IN THE APPLICATION.

[(c)**]** **(D)** Subject to the provisions of § 15–1607 of this part, the Commissioner shall register each pharmacy benefits manager that meets the requirements of this section.

15–1605.

(a) A pharmacy benefits manager registration expires on ~~[~~the second**]** September 30 after its effective date unless it is renewed as provided under this section.

(b) A pharmacy benefits manager may renew its registration for an additional ~~[~~2–year~~]~~ ~~1–YEAR~~ term, if the pharmacy benefits manager:

(1) otherwise is entitled to be registered;

(2) files with the Commissioner a renewal application on the form that the Commissioner requires; ~~[~~and~~]~~

(3) pays to the Commissioner a renewal fee ~~[~~set by the Commissioner~~]~~ ~~OF $1,000; AND~~

~~(4) FILES WITH THE COMMISSIONER A FINANCIAL STATEMENT CERTIFIED BY A CERTIFIED PUBLIC ACCOUNTANT WITHIN THE IMMEDIATELY PRECEDING 6 MONTHS, THAT PRESENTS, IN ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES, THE FINANCIAL POSITION OF THE APPLICANT AND CONTAINS THE INFORMATION THAT THE COMMISSIONER REQUIRES~~.

(c) An application for renewal of a pharmacy benefits manager registration shall be considered made in a timely manner if it is postmarked on or before the date the pharmacy benefits manager's registration expires.

~~(D) IF A PHARMACY BENEFITS MANAGER FAILS TO PAY THE RENEWAL FEE REQUIRED UNDER SUBSECTION (B)(3) OF THIS SECTION WHEN THE PHARMACY~~

~~BENEFITS MANAGER SUBMITS AN APPLICATION FOR RENEWAL, THE COMMISSIONER MAY IMPOSE AN ADDITIONAL APPLICATION FEE OF $500.~~

~~[~~(d)~~]~~ ~~(E)~~ Subject to the provisions of § 15–1607 of this part, the Commissioner shall renew the registration of each pharmacy benefits manager that meets the requirements of this section.

~~(F)~~ **(E) THE COMMISSIONER MAY REQUIRE ANY ADDITIONAL INFORMATION OR SUBMISSIONS FROM A PHARMACY BENEFITS MANAGER THAT MAY BE REASONABLY NECESSARY TO VERIFY THE INFORMATION CONTAINED IN THE APPLICATION.**

15–1607.

(a) ~~(1)~~ Subject to ~~PARAGRAPH (2) OF THIS SUBSECTION AND~~ the **APPLICABLE** hearing provisions of Title 2 of this article, the Commissioner may deny a registration to a pharmacy benefits manager applicant or refuse to renew, suspend, or revoke the registration of a pharmacy benefits manager if the pharmacy benefits manager, or an officer, director, or employee of the pharmacy benefits manager:

~~[~~(1)~~]~~ ~~(I)~~ makes a material misstatement or misrepresentation in an application for registration;

~~[~~(2)~~]~~ ~~(II)~~ fraudulently or deceptively obtains or attempts to obtain a registration;

~~[~~(3)~~]~~ ~~(III)~~ in connection with the administration of pharmacy benefits management services, commits fraud or engages in illegal or dishonest activities; or

~~[~~(4)~~]~~ ~~(IV)~~ violates any provision of this part or a regulation adopted under this part.

~~(2) SUBJECT TO THE APPROVAL OF THE COMMISSIONER, A PHARMACY BENEFITS MANAGER MAY, IN LIEU OF PART OR ALL OF THE DAYS OF ANY SUSPENSION PERIOD IMPOSED BY THE COMMISSIONER, PAY A FEE OF $1,000 PER DAY OF THE SUSPENSION PERIOD.~~

~~(B) IF THE COMMISSIONER'S DENIAL OR REVOCATION OF A PHARMACY BENEFITS MANAGER'S REGISTRATION IS SUSTAINED BY THE COMMISSIONER AFTER A HEARING IN ACCORDANCE WITH TITLE 2 OF THIS ARTICLE, A PHARMACY BENEFITS MANAGER MAY REAPPLY FOR A REGISTRATION NO EARLIER THAN 1 YEAR AFTER THE DATE ON WHICH A DENIAL OR REVOCATION WAS SUSTAINED BY THE COMMISSIONER.~~

~~[~~(b)~~]~~ ~~(C)~~ This section does not limit any other regulatory authority of the Commissioner under this article.

15–1611.

(A) THIS SECTION DOES NOT APPLY TO REIMBURSEMENT:

(1) FOR SPECIALTY DRUGS;

(2) FOR MAIL ORDER DRUGS; OR

(3) TO A CHAIN PHARMACY WITH MORE THAN 15 STORES OR A PHARMACIST WHO IS AN EMPLOYEE OF THE CHAIN PHARMACY.

(B) A PHARMACY BENEFITS MANAGER MAY NOT REIMBURSE A PHARMACY OR PHARMACIST FOR A PHARMACEUTICAL PRODUCT OR PHARMACIST SERVICE IN AN AMOUNT LESS THAN THE AMOUNT THAT THE PHARMACY BENEFITS MANAGER REIMBURSES ITSELF OR AN AFFILIATE FOR PROVIDING THE SAME PRODUCT OR SERVICE.

~~**15–1612.**~~

~~**IN ADDITION TO THE REGISTRATION AND RENEWAL FEES ESTABLISHED UNDER §§ 15–1604 AND 15–1605 OF THIS SUBTITLE, THE COMMISSIONER MAY REQUIRE A PHARMACY BENEFITS MANAGER TO PAY A FEE SET BY THE COMMISSIONER TO COVER THE COSTS OF IMPLEMENTATION AND ENFORCEMENT OF THIS SUBTITLE, INCLUDING FEES TO COVER THE COSTS OF:**~~

~~**(1) SALARIES AND BENEFITS PAID TO PERSONNEL ENGAGED IN THE IMPLEMENTATION AND ENFORCEMENT OF THIS SUBTITLE;**~~

~~**(2) REASONABLE TECHNOLOGY COSTS RELATING TO THE ENFORCEMENT OF THIS SUBTITLE, INCLUDING THE COSTS OF:**~~

~~**(I) SOFTWARE AND HARDWARE USED IN THE ENFORCEMENT PROCESS; AND**~~

~~**(II) TRAINING PERSONNEL IN THE PROPER USE OF THE SOFTWARE OR HARDWARE; AND**~~

~~**(3) EDUCATION AND TRAINING FOR PERSONNEL ENGAGED IN THE ENFORCEMENT OF THIS SUBTITLE TO MAINTAIN PROFICIENCY AND COMPETENCE.**~~

~~**15–1612.1.**~~

~~(A) A PHARMACY BENEFITS MANAGER MAY NOT PROHIBIT A PHARMACY OR PHARMACIST FROM:~~

~~(1) PROVIDING A BENEFICIARY WITH INFORMATION REGARDING THE RETAIL PRICE FOR A PRESCRIPTION DRUG OR THE AMOUNT OF THE COST SHARE FOR WHICH THE BENEFICIARY IS RESPONSIBLE FOR A PRESCRIPTION DRUG;~~

~~(2) DISCUSSING WITH A BENEFICIARY INFORMATION REGARDING THE RETAIL PRICE FOR A PRESCRIPTION DRUG OR THE AMOUNT OF THE COST SHARE FOR WHICH THE BENEFICIARY IS RESPONSIBLE FOR A PRESCRIPTION DRUG;~~

~~(3) IF A MORE AFFORDABLE DRUG IS AVAILABLE THAN ONE ON THE PURCHASER'S FORMULARY AND THE REQUIREMENTS FOR A THERAPEUTIC INTERCHANGE UNDER §§ 15–1633 THROUGH 15–1639 OF THIS SUBTITLE ARE MET, SELLING THE MORE AFFORDABLE ALTERNATIVE TO THE BENEFICIARY; OR~~

~~(4) OFFERING AND PROVIDING STORE DIRECT DELIVERY SERVICES TO AN ENROLLEE AS AN ANCILLARY SERVICE OF THE PHARMACY.~~

~~(B) THIS SECTION MAY NOT BE CONSTRUED TO ALTER THE REQUIREMENTS FOR A THERAPEUTIC INTERCHANGE UNDER §§ 15–1633 THROUGH 15–1639 OF THIS SUBTITLE.~~

15–1628.1.

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

(2) "Contracted pharmacy" means a pharmacy that participates in the network of a pharmacy benefits manager through a contract with:

(i) the pharmacy benefits manager; or

(ii) a pharmacy services administration organization or a group purchasing organization.

(3) "DRUG SHORTAGE LIST" MEANS A LIST OF DRUG PRODUCTS ~~SOLD AT A DISCOUNT WITH AN EXPIRATION DATE OF LESS THAN 1 YEAR FROM THE DATE OF PURCHASE BY THE CONTRACTED PHARMACY~~ **LISTED ON THE FEDERAL FOOD AND DRUG ADMINISTRATION'S DRUG SHORTAGES WEBSITE.**

[(3)**]** **(4) (I)** "Maximum allowable cost" means the maximum amount that a pharmacy benefits manager or a purchaser will reimburse a contracted pharmacy for the cost of a multisource generic drug, a medical product, or a device.

(II) "MAXIMUM ALLOWABLE COST" DOES NOT INCLUDE DISPENSING FEES.

[(4)**] (5)** "Maximum allowable cost list" means a list of multisource generic drugs, medical products, and devices for which a maximum allowable cost has been established by a pharmacy benefits manager or a purchaser.

(b) In each contract between a pharmacy benefits manager and a contracted pharmacy, the pharmacy benefits manager shall include the ~~METHODOLOGY AND~~ sources used to determine maximum allowable cost pricing.

~~(C) (1) A PHARMACY BENEFITS MANAGER SHALL DISCLOSE TO THE CONTRACTED PHARMACY WHETHER THE PHARMACY BENEFITS MANAGER IS USING AN IDENTICAL MAXIMUM ALLOWABLE COST LIST WITH ANY OTHER CONTRACTED PHARMACY.~~

~~(2) IF A PHARMACY BENEFITS MANAGER USES A DIFFERENT MAXIMUM ALLOWABLE COST LIST WITH ANOTHER CONTRACTED PHARMACY, THE PHARMACY BENEFITS MANAGER SHALL DISCLOSE TO THE CONTRACT PHARMACY ANY DIFFERENCES BETWEEN THE AMOUNT PAID TO ANY CONTRACTED PHARMACY AND THE AMOUNT CHARGED TO THE PURCHASER.~~

~~[~~(c)~~]~~ ~~(D)~~ A pharmacy benefits manager shall**:**

(1) update its pricing information at least every 7 days ~~and provide a means ON THE PHARMACY BENEFITS MANAGER'S WEBSITE by which ALL contracted pharmacies may promptly review pricing updates in a format that is readily available and accessible AT THE TIME THE PHARMACY BENEFITS MANAGER UPDATES THE LIST FOR ITS OWN USE~~**;**

(2) ESTABLISH A REASONABLE PROCESS BY WHICH A CONTRACTED PHARMACY HAS ACCESS TO THE CURRENT AND APPLICABLE MAXIMUM ALLOWABLE COST PRICE LISTS IN AN ELECTRONIC FORMAT AS UPDATED IN ACCORDANCE WITH THE REQUIREMENTS OF THIS SECTION; AND

~~(2)~~ (3) IMMEDIATELY AFTER A PRICING INFORMATION UPDATE UNDER ITEM (1) OF THIS SUBSECTION, USE THE UPDATED PRICING INFORMATION IN CALCULATING THE PAYMENTS MADE TO ALL CONTRACTED PHARMACIES~~; AND~~.

~~(3) DISCLOSE IN EACH CONTRACT BETWEEN THE PHARMACY BENEFITS MANAGER AND A CONTRACTED PHARMACY WHETHER THE PHARMACY BENEFITS MANAGER USES A DIFFERENT MAXIMUM ALLOWABLE COST LIST FOR DRUGS, PRODUCTS, OR DEVICES DISPENSED AT RETAIL PHARMACIES THAN FOR DRUGS, PRODUCTS, OR DEVICES DISPENSED BY MAIL.~~

~~(E) A PHARMACY BENEFITS MANAGER SHALL DISCLOSE TO A CONTRACTED PHARMACY A MAXIMUM ALLOWABLE COST LIST USED BY THE PHARMACY BENEFITS MANAGER FOR DRUGS, PRODUCTS, OR DEVICES DISPENSED BY MAIL IF THE MAXIMUM ALLOWABLE COST LIST IS:~~

~~(1) DIFFERENT THAN THE MAXIMUM ALLOWABLE COST LIST USED BY THE PHARMACY BENEFITS MANAGER FOR DRUGS, PRODUCTS, OR DEVICES DISPENSED AT RETAIL PHARMACIES; AND~~

~~(2) ADOPTED BY THE PHARMACY BENEFITS MANAGER AFTER EXECUTING A CONTRACT WITH THE CONTRACTED PHARMACY.~~

~~[~~(d)~~]~~ ~~(F)~~ **(1)** A pharmacy benefits manager shall maintain a procedure to eliminate products from the list of drugs subject to maximum allowable cost pricing **[**in a timely manner**]** **AS NECESSARY** to**:**

(I) remain consistent with pricing changes**;**

(II) REMOVE FROM THE LIST DRUGS THAT NO LONGER MEET THE REQUIREMENTS OF SUBSECTION ~~(G)~~ (E) OF THIS SECTION; AND

(III) ~~ENSURE THE~~ **REFLECT THE CURRENT AVAILABILITY OF DRUGS** in the marketplace.

(2) A PRODUCT ON THE MAXIMUM ALLOWABLE COST LIST SHALL BE ELIMINATED FROM THE LIST BY THE PHARMACY BENEFITS MANAGER WITHIN ~~24 HOURS~~ 7 DAYS AFTER THE PHARMACY BENEFITS MANAGER KNOWS ~~OR SHOULD HAVE~~ ~~KNOWN~~ OF A CHANGE IN THE ~~PRICING OR~~ AVAILABILITY OF THE PRODUCT.

~~[~~(e)~~]~~ ~~(G)~~ Before placing a prescription drug on a maximum allowable cost list, a pharmacy benefits manager shall ensure that:

(1) the drug is listed as "A" or "B" rated in the most recent version of the U.S. Food and Drug Administration's approved drug products with therapeutic equivalence evaluations, also known as the Orange Book, or has an "NR" or "NA" rating or similar rating by a nationally recognized reference; **[**and**]**

(2) **(I) IF A DRUG IS MANUFACTURED BY MORE THAN ONE MANUFACTURER,** the drug is ~~[~~generally~~]~~ available ~~IN AT LEAST THREE GENERICALLY EQUIVALENT OR BIOEQUIVALENT VERSIONS~~ for purchase by contracted pharmacies**, INCLUDING CONTRACTED RETAIL PHARMACIES,** in the State from a **[**national or regional**]** wholesale distributor **[**and is not obsolete**]** **WITH A PERMIT IN THE STATE; OR**

(II) IF A DRUG IS MANUFACTURED BY ONLY ONE MANUFACTURER, THE DRUG IS GENERALLY AVAILABLE FOR PURCHASE BY CONTRACTED PHARMACIES, INCLUDING CONTRACTED RETAIL PHARMACIES, IN THE STATE FROM AT LEAST TWO WHOLESALE DISTRIBUTORS WITH A PERMIT IN THE STATE; AND

(3) THE DRUG IS NOT OBSOLETE, TEMPORARILY UNAVAILABLE, OR LISTED ON A DRUG SHORTAGE LIST AS CURRENTLY IN SHORTAGE.

~~**(II) A PHARMACY BENEFITS MANAGER MAY NOT SET THE MAXIMUM ALLOWABLE COST FOR ANY DRUG, PRODUCT, OR DEVICE IT PLACES ON A MAXIMUM ALLOWABLE COST LIST IN AN AMOUNT THAT IS BELOW THE AMOUNT ESTABLISHED IN THE SOURCE USED BY THE PHARMACY BENEFITS MANAGER TO SET THE MAXIMUM ALLOWABLE COST FOR THE DRUG, PRODUCT, OR DEVICE.**~~

[(f)**]** ~~**(I)**~~ Each contract between a pharmacy benefits manager and a contracted pharmacy must include a process to appeal, investigate, and resolve disputes regarding maximum allowable cost pricing that includes:

(1) a requirement that an appeal be filed **BY THE CONTRACT PHARMACY** no later than 21 days after the date of the initial **ADJUDICATED** claim;

(2) a requirement that **[**an appeal be investigated and resolved**],** within **[**21**]** ~~**7**~~ days after the date the appeal is filed**, THE PHARMACY BENEFITS MANAGER INVESTIGATE AND RESOLVE THE APPEAL AND REPORT TO THE CONTRACTED PHARMACY ON THE PHARMACY BENEFITS MANAGER'S DETERMINATION ON THE APPEAL**;

(3) **A REQUIREMENT THAT A PHARMACY BENEFITS MANAGER MAKE AVAILABLE ON ITS WEBSITE INFORMATION ABOUT THE APPEAL PROCESS, INCLUDING:**

(I) a ~~**DIRECT**~~ telephone number at which the contracted pharmacy may **DIRECTLY** contact the **DEPARTMENT OR OFFICE RESPONSIBLE FOR PROCESSING APPEALS FOR THE** pharmacy benefits manager to speak to an individual ~~**SPECIFICALLY**~~ **OR LEAVE A MESSAGE FOR AN INDIVIDUAL WHO IS** responsible for processing appeals**;**

(II) AN E–MAIL ADDRESS OF THE DEPARTMENT OR OFFICE RESPONSIBLE FOR PROCESSING APPEALS TO WHICH AN INDIVIDUAL WHO IS RESPONSIBLE FOR PROCESSING APPEALS HAS ACCESS; **AND**

~~**(II)**~~ **(III) A NOTICE INDICATING THAT THE INDIVIDUAL** ~~**SPECIFICALLY**~~ **RESPONSIBLE FOR PROCESSING APPEALS SHALL RETURN** ~~**CALLS**~~ **A**

CALL OR AN E–MAIL MADE BY A CONTRACTED PHARMACY TO THE INDIVIDUAL WITHIN 3 BUSINESS DAYS OR LESS OF RECEIVING THE CALL OR E–MAIL;

(4) a requirement that a pharmacy benefits manager provide:

(i) a reason for any appeal denial; and

(ii) the national drug code of a drug ~~that IS READILY AVAILABLE FOR PURCHASE~~ **AND THE NAME OF THE WHOLESALE DISTRIBUTOR FROM WHICH THE DRUG** ~~may be purchased by the contracted pharmacy~~ **WAS AVAILABLE ON THE DATE THE CLAIM WAS ADJUDICATED** at a price at or below the **[**benchmark price**]** **MAXIMUM ALLOWABLE COST** determined by the pharmacy benefits manager; and

(5) if an appeal is upheld, a requirement that a pharmacy benefits manager:

~~(i) make the change in the maximum allowable cost no later than 1 business day after the date of determination on the appeal; and~~

~~(ii) permit the appealing contracting pharmacy to reverse and rebill the claim, and any subsequent similar claims.~~

(I) FOR THE APPEALING PHARMACY:

1. ADJUST THE MAXIMUM ALLOWABLE COST FOR THE DRUG AS OF THE DATE OF THE ORIGINAL CLAIM FOR PAYMENT; AND

2. WITHOUT REQUIRING THE APPEALING PHARMACY TO REVERSE AND REBILL THE CLAIMS, PROVIDE REIMBURSEMENT FOR THE CLAIM AND ANY SUBSEQUENT AND SIMILAR CLAIMS UNDER SIMILARLY APPLICABLE CONTRACTS WITH THE PHARMACY BENEFITS MANAGER:

A. FOR THE ORIGINAL CLAIM, IN THE FIRST REMITTANCE TO THE PHARMACY AFTER THE DATE THE APPEAL WAS DETERMINED; AND

B. FOR SUBSEQUENT AND SIMILAR CLAIMS UNDER SIMILARLY APPLICABLE CONTRACTS, IN THE SECOND REMITTANCE TO THE PHARMACY AFTER THE DATE THE APPEAL WAS DETERMINED; AND

(II) FOR A SIMILARLY SITUATED CONTRACTED PHARMACY IN THE STATE:

1. ADJUST THE MAXIMUM ALLOWABLE COST FOR THE DRUG AS OF THE DATE THE APPEAL WAS DETERMINED; AND

2. PROVIDE NOTICE TO THE PHARMACY OR PHARMACY'S CONTRACTED AGENT THAT:

A. AN APPEAL HAS BEEN UPHELD; AND

B. WITHOUT FILING A SEPARATE APPEAL, THE PHARMACY OR THE PHARMACY'S CONTRACTED AGENT MAY REVERSE AND REBILL A SIMILAR CLAIM.

~~**(J) (1) WITHIN 30 CALENDAR DAYS AFTER A PHARMACY BENEFITS MANAGER DENIES AN APPEAL BY A CONTRACTED PHARMACY UNDER SUBSECTION (I) OF THIS SECTION, THE CONTRACTED PHARMACY MAY FILE A COMPLAINT WITH THE COMMISSIONER FOR REVIEW OF THE DECISION BY THE PHARMACY BENEFITS MANAGER.**~~

~~**(2) A CONTRACTED PHARMACY SHALL EXHAUST THE APPEAL PROCESS ESTABLISHED BY THE PHARMACY BENEFITS MANAGER UNDER SUBSECTION (I) OF THIS SECTION BEFORE FILING A COMPLAINT WITH THE COMMISSIONER UNDER THIS SUBSECTION.**~~

~~**(3) THE COMMISSIONER SHALL HOLD A HEARING ON THE COMPLAINT AND ISSUE AN ORDER IN ACCORDANCE WITH THE HEARING AND REVIEW PROCEDURES ESTABLISHED UNDER §§ 2–210 THROUGH 2–214 OF THIS ARTICLE.**~~

~~**(4) AN APPEAL OF AN ORDER OF THE COMMISSIONER UNDER THIS SUBSECTION MAY BE TAKEN IN ACCORDANCE WITH § 2–215 OF THIS ARTICLE.**~~

~~**(5)**~~ **(G) A PHARMACY BENEFITS MANAGER MAY NOT RETALIATE AGAINST A CONTRACTED PHARMACY FOR EXERCISING ITS RIGHT TO APPEAL UNDER THIS SECTION OR FILING A COMPLAINT WITH THE COMMISSIONER UNDER THIS SUBSECTION.**

~~**(K)**~~ **(H) A PHARMACY BENEFITS MANAGER MAY NOT CHARGE A CONTRACTED PHARMACY A FEE RELATED TO ~~AN ADJUDICATION OF A CLAIM UNDER~~ THE READJUDICATION OF A CLAIM OR CLAIMS RESULTING FROM CARRYING OUT THE REQUIREMENT OF A CONTRACT SPECIFIED IN SUBSECTION (F)(5) OF THIS SECTION OR THE UPHOLDING OF AN APPEAL UNDER SUBSECTION (I) OF THIS SECTION.**

~~**(L) (1) A PHARMACY BENEFITS MANAGER THAT VIOLATES THIS SECTION IS SUBJECT TO A CIVIL PENALTY OF NOT LESS THAN $1,000 FOR EACH VIOLATION.**~~

~~**(2) EACH DAY THAT A VIOLATION CONTINUES SHALL BE A SEPARATE VIOLATION.**~~

(I) (1) IF A PHARMACY BENEFITS MANAGER DENIES AN APPEAL AND A CONTRACTED PHARMACY FILES A COMPLAINT WITH THE COMMISSIONER, THE COMMISSIONER SHALL:

(I) REVIEW THE COMPENSATION PROGRAM OF THE PHARMACY BENEFITS MANAGER TO ENSURE THAT THE REIMBURSEMENT FOR PHARMACY BENEFITS MANAGEMENT SERVICES PAID TO THE PHARMACIST OR A PHARMACY COMPLIES WITH THIS SUBTITLE AND THE TERMS OF THE CONTRACT; AND

(II) BASED ON A DETERMINATION MADE BY THE COMMISSIONER UNDER ITEM (I) OF THIS PARAGRAPH, DISMISS THE APPEAL OR UPHOLD THE APPEAL AND ORDER THE PHARMACY BENEFITS MANAGER TO PAY THE CLAIM OR CLAIMS IN ACCORDANCE WITH THE COMMISSIONER'S FINDINGS.

(2) ALL PRICING INFORMATION AND DATA COLLECTED BY THE COMMISSIONER DURING A REVIEW REQUIRED BY PARAGRAPH (1) OF THIS SUBSECTION:

(I) IS CONSIDERED TO BE CONFIDENTIAL AND PROPRIETARY INFORMATION; AND

(II) IS NOT SUBJECT TO DISCLOSURE UNDER THE PUBLIC INFORMATION ACT.

15–1642.

(a) If the Commissioner determines that a pharmacy benefits manager has violated any provision of this subtitle or any regulation adopted under this subtitle, the Commissioner may issue an order that requires the pharmacy benefits manager to:

(1) cease and desist from the identified violation and further similar violations;

(2) take specific affirmative action to correct the violation; **[**or**]**

(3) make restitution of money, property, or other assets to a person that has suffered financial injury because of the violation**; OR**

(4) PAY A FINE IN AN AMOUNT DETERMINED BY THE COMMISSIONER.

(b) (1) An order of the Commissioner issued under this section may be served on a pharmacy benefits manager that is registered under Part II of this subtitle in the manner provided in § 2–204 of this article.

(2) An order of the Commissioner issued under this section may be served on a pharmacy benefits manager that is not registered under Part II of this subtitle in the manner provided in § 4–206 or § 4–207 of this article for service on an unauthorized insurer that does an act of insurance business in the State.

(3) A request for a hearing on any order issued under this section does not stay that portion of the order that requires the pharmacy benefits manager to cease and desist from conduct identified in the order.

(4) The Commissioner may file a petition in the circuit court of any county to enforce an order issued under this section, whether or not a hearing has been requested or, if requested, whether or not a hearing has been held.

(5) If the Commissioner prevails in an action brought under this section, the Commissioner may recover, for the use of the State, reasonable attorney's fees and the costs of the action.

(c) In addition to any other enforcement action taken by the Commissioner under this section ~~**AND SUBJECT TO § 15–1628.1(L) OF THIS SUBTITLE**~~, the Commissioner may impose a civil penalty not exceeding $10,000 for each violation of this subtitle.

(D) THE COMMISSIONER MAY ADOPT REGULATIONS:

(1) TO CARRY OUT THIS SUBTITLE; AND

(2) TO ESTABLISH A COMPLAINT PROCESS TO ADDRESS GRIEVANCES AND APPEALS BROUGHT IN ACCORDANCE WITH THIS SUBTITLE.

[(d)**]** **(E)** This section does not limit any other regulatory authority of the Commissioner under this article.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to all contracts between a pharmacy benefits manager and a pharmacy entered into or ~~renewed~~ in effect on or after January 1, 2019.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~January~~ June 1, ~~2019~~ 2018.

May 25, 2018

The Honorable Thomas V. Mike Miller, Jr.
President of the Senate

H–107 State House
Annapolis, MD 21401

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed Senate Bill 1128 – *Offshore Drilling Liability Act.*

This bill establishes that an "offshore drilling activity" is an ultrahazardous and abnormally dangerous activity and that a person that causes a spill of "oil" or "gas" (as those terms are defined in the bill) while engaged in an offshore drilling activity is strictly liable for damages for any injury, death, or loss to person or property that is caused by the spill. "Offshore drilling activity" means the exploration, development, or production of oil or gas in, on, or under the federal outer continental shelf (OCS) waters; and, transporting oil or gas by pipeline, ship, or otherwise from a specific site of exploration, development, or production of oil or gas on the federal OCS. The bill has prospective application and does not apply to any cause of action arising before the bill's October 1, 2018 effective date.

House Bill 1456, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign Senate Bill 1128.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

Senate Bill 1128

AN ACT concerning

Offshore Drilling Liability Act

FOR the purpose of establishing that an offshore drilling activity is an ultrahazardous and abnormally dangerous activity; establishing that a person that causes a spill of oil or gas while engaged in an offshore drilling activity is strictly liable for certain damages; voiding as against public policy a provision of any contract or agreement that attempts or purports to waive certain rights or reduce certain liability for injury, death, or loss to person or property caused by an oil or gas spill as a result of an offshore drilling activity; establishing that certain provisions concerning a certain bond do not apply to a judgment in a civil action for damages relating to an offshore drilling activity; defining certain terms; providing for the application of this Act; and generally relating to civil liability for oil or gas spills related to offshore drilling activities.

BY adding to
Article – Courts and Judicial Proceedings

Section 3–2101 through 3–2104 to be under the new subtitle "Subtitle 21. Offshore Drilling Liability Act"
Annotated Code of Maryland
(2013 Replacement Volume and 2017 Supplement)

BY repealing and reenacting, with amendments,
Article – Courts and Judicial Proceedings
Section 12–301.1(a)
Annotated Code of Maryland
(2013 Replacement Volume and 2017 Supplement)

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

Article – Courts and Judicial Proceedings

SUBTITLE 21. OFFSHORE DRILLING LIABILITY ACT.

3–2101.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) (1) "GAS" MEANS ANY NATURAL GAS OR OTHER FLUID HYDROCARBONS THAT ARE PRODUCED FROM A NATURAL RESERVOIR.

(2) "GAS" INCLUDES:

(I) CARBON DIOXIDE; AND

(II) HYDROGEN SULFIDE.

(C) "OFFSHORE DRILLING ACTIVITY" MEANS ~~EXPLORATION OR DRILLING FOR~~ ~~THE~~*:*

(1)* *THE* EXPLORATION, DEVELOPMENT, OR PRODUCTION OF OIL OR GAS IN, ON, OR UNDER THE FEDERAL OUTER CONTINENTAL SHELF WATERS*; AND

***(2)* *TRANSPORTING OIL OR GAS BY PIPELINE, SHIP, OR OTHERWISE FROM A SPECIFIC SITE OF EXPLORATION, DEVELOPMENT, OR PRODUCTION OF OIL OR GAS ON THE FEDERAL OUTER CONTINENTAL SHELF*.**

(D) "OIL" MEANS OIL OF ANY KIND OR IN ANY FORM, INCLUDING PETROLEUM, PETROLEUM BY–PRODUCTS, FUEL OIL, SLUDGE, CRUDE OIL, OIL REFUSE, AND OIL MIXED WITH WASTES.

3–2102.

(A) AN OFFSHORE DRILLING ACTIVITY IS AN ULTRAHAZARDOUS AND ABNORMALLY DANGEROUS ACTIVITY.

(B) A PERSON THAT CAUSES A SPILL OF OIL OR GAS WHILE ENGAGED IN AN OFFSHORE DRILLING ACTIVITY IS STRICTLY LIABLE FOR DAMAGES FOR ANY INJURY, DEATH, OR LOSS TO PERSON OR PROPERTY THAT IS CAUSED BY THE SPILL.

3–2103.

A PROVISION IN ANY CONTRACT OR AGREEMENT THAT ATTEMPTS OR PURPORTS TO WAIVE THE RIGHT TO BRING AN ACTION UNDER THIS SUBTITLE OR REDUCE ANY LIABILITY FOR INJURY, DEATH, OR LOSS TO PERSON OR PROPERTY THAT IS CAUSED BY A SPILL OF OIL OR GAS AS A RESULT OF AN OFFSHORE DRILLING ACTIVITY IS VOID AS AGAINST PUBLIC POLICY.

3–2104.

THIS SUBTITLE MAY BE CITED AS THE OFFSHORE DRILLING LIABILITY ACT.

12–301.1.

(a) **(1) THIS SECTION DOES NOT APPLY TO A JUDGMENT IN AN ACTION FOR DAMAGES UNDER § 3–2102 OF THIS ARTICLE.**

(2) Except as provided in subsection (d) of this section and notwithstanding any other law or court rule, in a civil action the amount of the supersedeas bond necessary to obtain a stay of enforcement of a judgment granting any type of relief during the entire course of all appeals or discretionary reviews may not exceed the lesser of $100,000,000 or the amount of the judgment for each appellant, regardless of the amount of the judgment appealed.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to any cause of action arising before the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2018.

Vetoed House Bills and Messages

May 25, 2018

The Honorable Michael E. Busch
Speaker of the House
H–101 State House
Annapolis, MD 21401

Dear Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed House Bill 54 – *State Highway Administration – Sale or Lease of Naming Rights for Rest Areas and Welcome Centers.*

This bill authorizes the State Highway Administration (SHA) to sell or lease the naming rights for rest areas or welcome centers within State highway rights–of–way to a private entity, if doing so is consistent with federal regulations governing the distribution of federal highway funds to the State. The bill establishes conditions and requirements relating to such authority. All proceeds from the sale or lease of naming rights must be credited to the Transportation Trust Fund (TTF).

Senate Bill 24, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 54.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

House Bill 54

AN ACT concerning

State Highway Administration – Sale or Lease of Naming Rights for Rest Areas and Welcome Centers

FOR the purpose of authorizing the State Highway Administration to sell or lease to a private entity the naming rights for rest areas and welcome centers along State highways; requiring the term of a contract for the sale or lease of naming rights for rest areas and welcome centers to be at least a certain period of time; prohibiting the Administration from selling or leasing highway naming rights under this Act unless the Administration makes a certain determination regarding compliance of the proposed use of the naming rights with federal regulations and the distribution of certain federal funds; providing that a sale or lease of naming rights for a rest area or welcome center may not be construed to require that any official State highway sign or mailing address be altered; authorizing a private entity that purchases or

leases the naming rights for a rest area or welcome center to erect certain outdoor signs along the highway; requiring a private entity that erects outdoor signs along a State highway under this Act to pay all costs associated with the signs; requiring outdoor signs erected by a private entity along a State highway to comply with certain requirements; requiring proceeds from the sale or lease of naming rights for a rest area or welcome center to be credited to the Transportation Trust Fund; defining certain terms; and generally relating to the sale or lease of naming rights for rest areas or welcome centers along State highway rights–of–way.

BY repealing and reenacting, without amendments,
Article – Transportation
Section 8–204(h)
Annotated Code of Maryland
(2015 Replacement Volume and 2017 Supplement)

BY adding to
Article – Transportation
Section 8–208
Annotated Code of Maryland
(2015 Replacement Volume and 2017 Supplement)

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

Article – Transportation

8–204.

(h) By rules or regulations consistent with the safety and welfare of the traveling public, the Administration may govern the control and use of rest areas, scenic overlooks, roadside picnic areas, and other public use areas within State highway rights–of–way.

8–208.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) "ERECT" HAS THE MEANING STATED IN § 8–701 OF THIS TITLE.

(3) "OUTDOOR SIGN" HAS THE MEANING STATED IN § 8–701 OF THIS TITLE.

(4) "PRIVATE ENTITY" INCLUDES AN INDIVIDUAL, A CORPORATION, A GENERAL OR LIMITED PARTNERSHIP, A LIMITED LIABILITY COMPANY, A JOINT VENTURE, A BUSINESS TRUST, A PUBLIC BENEFIT CORPORATION, A NONPROFIT ENTITY, OR ANY OTHER BUSINESS ENTITY.

(B) (1) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE ADMINISTRATION MAY SELL OR LEASE TO A PRIVATE ENTITY THE NAMING RIGHTS FOR REST AREAS OR WELCOME CENTERS WITHIN STATE HIGHWAY RIGHTS–OF–WAY.

(II) THE ADMINISTRATION MAY NOT SELL OR LEASE TO A PRIVATE ENTITY THE NAMING RIGHTS FOR REST AREAS OR WELCOME CENTERS WITHIN STATE HIGHWAY RIGHTS–OF–WAY UNLESS THE ADMINISTRATION DETERMINES THAT THE PROPOSED USE OF THE NAMING RIGHTS AND SIGNAGE ASSOCIATED WITH THE PROPOSED USE OF THE NAMING RIGHTS IS IN COMPLIANCE WITH FEDERAL REGULATIONS GOVERNING THE DISTRIBUTION OF FEDERAL HIGHWAY FUNDS TO THE STATE.

(2) THE TERM OF A CONTRACT THAT THE ADMINISTRATION ENTERS INTO UNDER THIS SUBSECTION SHALL BE AT LEAST 1 YEAR.

(C) A SALE OR LEASE OF NAMING RIGHTS UNDER THIS SECTION IS SOLELY FOR SPONSORSHIP PURPOSES AND MAY NOT BE CONSTRUED TO REQUIRE THAT ANY OFFICIAL STATE HIGHWAY SIGN OR MAILING ADDRESS BE ALTERED.

(D) (1) A PRIVATE ENTITY THAT PURCHASES OR LEASES NAMING RIGHTS FOR A REST AREA OR WELCOME CENTER WITHIN A STATE HIGHWAY RIGHT–OF–WAY UNDER THIS SECTION MAY ERECT OUTDOOR SIGNS ALONG THE HIGHWAY FOR THE PURPOSE OF SPONSORING THE DESIGNATION.

(2) ALL COSTS ASSOCIATED WITH OUTDOOR SIGNS ERECTED UNDER THIS SUBSECTION SHALL BE PAID BY THE PRIVATE ENTITY THAT PURCHASES OR LEASES THE NAMING RIGHTS FOR THE REST AREA OR WELCOME CENTER, INCLUDING THE COSTS OF CONSTRUCTION, INSTALLATION, OPERATION, MAINTENANCE, AND REMOVAL OF THE SIGNS.

(3) OUTDOOR SIGNS UNDER THIS SUBSECTION:

(I) MAY NOT BE ERECTED WITHOUT PRIOR APPROVAL BY:

1. THE ADMINISTRATION; AND

2. THE FEDERAL HIGHWAY ADMINISTRATION IF NECESSARY TO SECURE FEDERAL HIGHWAY FUNDS;

(II) MAY NOT DETRACT FROM THE SAFETY OF THE TRAVELING PUBLIC, AS DETERMINED BY THE ADMINISTRATION;

(III) SHALL CONFORM TO ALL DESIGN AND PLACEMENT GUIDELINES FOR ACKNOWLEDGMENT SIGNS PROVIDED IN THE FEDERAL MANUAL ON UNIFORM CONTROL DEVICES FOR STREETS AND HIGHWAYS;

(IV) MAY NOT INCLUDE A NAME OR LOGO THAT IN THE JUDGMENT OF THE ADMINISTRATION:

1. IS PROFANE, OBSCENE, OR VULGAR;

2. IS SEXUALLY EXPLICIT OR GRAPHIC;

3. RELATES TO EXCRETORY FUNCTIONS;

4. IS DESCRIPTIVE OF THE GENITALS OR OTHER INTIMATE PARTS OF A BODY;

5. RELATES TO OR DESCRIBES ILLEGAL ACTIVITIES OR SUBSTANCES;

6. CONDONES OR ENCOURAGES VIOLENCE;

7. IS SOCIALLY, RACIALLY, OR ETHNICALLY OFFENSIVE OR DISPARAGING; OR

8. IS NOT IN THE PUBLIC INTEREST OF THE STATE; AND

(V) ARE SUBJECT TO THE REQUIREMENTS OF SUBTITLE 7 OF THIS TITLE AND ANY OTHER LAW GOVERNING OUTDOOR SIGNS.

(E) PROCEEDS FROM THE SALE OR LEASE OF NAMING RIGHTS UNDER THIS SECTION SHALL BE CREDITED TO THE TRANSPORTATION TRUST FUND.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2018.

May 25, 2018

The Honorable Michael E. Busch
Speaker of the House
H–101 State House

Annapolis, MD 21401

Dear Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed House Bill 104 – *Natural Resources – Electronic Licensing – Voluntary Donations.*

This bill allows for donations to be made to the Chesapeake Bay Trust (CBT) and the Chesapeake and Atlantic Coastal Bays 2010 Trust Fund (2010 Trust Fund) through the Department of Natural Resources' (DNR) electronic licensing system.

Senate Bill 149, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 104.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

House Bill 104

AN ACT concerning

Natural Resources – Electronic Licensing – Voluntary Donations

FOR the purpose of requiring the Department of Natural Resources to establish a process through which an individual who ~~obtains~~ purchases a license, permit, or registration through the electronic licensing system may make a voluntary monetary donation to the Chesapeake Bay Trust and the Chesapeake and Atlantic Coastal Bays 2010 Trust Fund at the time the license, permit, or registration is ~~obtained~~ purchased in accordance with certain requirements; requiring the Department to collect the donations made under this Act and distribute the proceeds in a certain manner; establishing authorized uses of funds donated under this Act; establishing a certain annual reporting requirement; and generally relating to the establishment of a voluntary donation process through the electronic licensing system of the Department of Natural Resources.

BY repealing and reenacting, with amendments,
Article – Natural Resources
Section 1–403
Annotated Code of Maryland
(2012 Replacement Volume and 2017 Supplement)

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

Article – Natural Resources

1–403.

(a) Notwithstanding any other provision of this article, the Department may develop and implement an electronic system for the sale and issuance of licenses, permits, and registrations and the recording and releasing of security interests.

(b) The electronic system may include provisions for:

(1) Recording titling and registration data;

(2) Recording and releasing liens without the issuance of a security interest filing; and

(3) Recording information relating to an application for a license, permit, or registration.

(c) The Department shall develop the electronic system consistent with the statewide information technology master plan developed under Title 3A, Subtitle 3 of the State Finance and Procurement Article.

(d) The Department may adopt regulations to:

(1) Implement the electronic system authorized under this section; and

(2) Determine the appropriate fee levels that may be charged by a vendor and by the Department for the electronic transmission service.

(E) (1) (I) THE DEPARTMENT SHALL ESTABLISH A PROCESS THROUGH WHICH AN INDIVIDUAL WHO ~~OBTAINS~~ PURCHASES A LICENSE, PERMIT, OR REGISTRATION THROUGH THE ELECTRONIC SYSTEM MAY MAKE A VOLUNTARY MONETARY DONATION TO THE CHESAPEAKE BAY TRUST AND THE CHESAPEAKE AND ATLANTIC COASTAL BAYS 2010 TRUST FUND AT THE TIME THE LICENSE, PERMIT, OR REGISTRATION IS ~~OBTAINED~~ PURCHASED.

(II) THE DONATION PROCESS ESTABLISHED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH:

1. SHALL BE MADE AVAILABLE ONLY TO AN INDIVIDUAL PURCHASING DIRECTLY THROUGH THE ELECTRONIC SYSTEM; AND

2. MAY NOT BE MADE AVAILABLE TO AN INDIVIDUAL PURCHASING THROUGH AN AUTHORIZED VENDOR.

(2) THE DEPARTMENT SHALL:

(I) COLLECT ANY DONATIONS MADE UNDER THIS SUBSECTION; AND

(II) DISTRIBUTE THE PROCEEDS OF THE DONATIONS AS FOLLOWS:

1. 50% TO THE CHESAPEAKE BAY TRUST ESTABLISHED UNDER § 8–1902 OF THIS ARTICLE; AND

2. 50% TO THE CHESAPEAKE AND ATLANTIC COASTAL BAYS 2010 TRUST FUND ESTABLISHED UNDER § 8–2A–02 OF THIS ARTICLE.

(3) (I) THE CHESAPEAKE BAY TRUST MAY USE THE FUNDS IT RECEIVES UNDER THIS SUBSECTION ONLY TO PROVIDE GRANTS AND OTHER RESOURCES TO NONPROFIT ORGANIZATIONS, COMMUNITY ASSOCIATIONS, CIVIC GROUPS, SCHOOLS, OR PUBLIC AGENCIES FOR PROJECTS TO ENHANCE OR PROMOTE:

1. PUBLIC EDUCATION, INCLUDING THE PUBLICATION OR PRODUCTION OF EDUCATIONAL MATERIALS, CONCERNING THE CHESAPEAKE BAY, THE MARYLAND COASTAL BAYS, THE YOUGHIOGHENY WATERSHED, AND OTHER NATURAL RESOURCES;

2. THE PRESERVATION OR ENHANCEMENT OF WATER QUALITY AND FISH OR WILDLIFE HABITAT;

3. THE RESTORATION OF AQUATIC OR LAND RESOURCES;

4. REFORESTATION; AND

5. TRAINING IN ENVIRONMENTAL STUDIES OR ENHANCEMENT.

(II) FUNDS DISTRIBUTED TO THE CHESAPEAKE AND ATLANTIC COASTAL BAYS 2010 TRUST FUND MAY BE USED TO PROVIDE FINANCIAL ASSISTANCE NECESSARY TO ADVANCE MARYLAND'S PROGRESS IN MEETING THE GOALS ESTABLISHED IN THE 2014 CHESAPEAKE BAY WATERSHED AGREEMENT AND TO RESTORE THE HEALTH OF THE ATLANTIC COASTAL BAYS BY FOCUSING ON NONPOINT SOURCE POLLUTION CONTROL PROJECTS, AS AUTHORIZED UNDER TITLE 8, SUBTITLE 2A OF THIS ARTICLE.

(4) ON OR BEFORE DECEMBER 1 EACH YEAR, THE DEPARTMENT SHALL REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2–1246 OF THE

STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON THE COLLECTION, DISTRIBUTION, AND EXPENDITURE OF ANY VOLUNTARY MONETARY DONATIONS MADE UNDER THIS SUBSECTION IN THE PREVIOUS FISCAL YEAR.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2018.

May 25, 2018

The Honorable Michael E. Busch
Speaker of the House
State House
Annapolis, Maryland 21401

Dear Speaker Busch:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed House Bill 180 – *Railroad Company – Movement of Freight – Required Crew*.

This legislation attempts to codify a private industry issue that should either continue to be negotiated between the employer and the employer's representatives or decided at the federal level since it involves interstate commerce and clearly falls within the federal government's regulatory purview. For three years, I have made it my Administration's top priority to ensure that Maryland is Open for Business. I cannot allow a bill to become law that attempts to circumvent the collective bargaining process in private industry and which will ultimately kill job opportunities for the thousands of Maryland's citizens who depend on an economically viable Port of Baltimore, make our great state less competitive with our neighbors, burden our taxpayers, and bring confusion to the Mid–Atlantic region's complex rail network.

House Bill 180 puts the Port of Baltimore, one of our State's major economic engines, at a competitive disadvantage with neighboring ports. Only two states in the nation – both West of the Mississippi River – have a two–person crew requirement. Freight rail is America's backbone of interstate commerce. Mandating that carriers in the State of Maryland use a larger crew size than would be required of the same railroads operating out of Norfolk, Philadelphia, or New York will directly result in an increase in shipping costs and deter carriers from operating in the state resulting in the loss of jobs directly related to the Port. Those same jobs produce an average annual wage that is 16.4 percent higher than the state average.

During my administration, the Port of Baltimore and Seagirt Marine Terminal have grown significantly, breaking records in each of the last three years, adding jobs and economic activity in the process. Last year, the Port of Baltimore set a 38–year record for public and

private cargo handled. Large volume surges can strain trucking resources. For this growth to continue, we need viable intermodal options to ensure cargo velocity remains at optimal levels. This includes rail connectivity to locations that are currently serviced only by truck. Tradepoint Atlantic is one such location that offers tremendous potential to increase cargo volume through the Port of Baltimore, however shipping cost is a serious challenge to fully realizing this potential. Carriers will always move cargo by the most efficient and economical means. As the Port is developing a rail shuttle solution, absorbing an additional layer of cost constitutes a serious burden in an industry that already operates on razor thin margins. In that respect, the bill sends a disturbing message to the Port's private sector industry partners and would have a chilling effect on discussions with CSX as the Port continues to work towards modernizing the Howard Street Tunnel to allow for double–stack containers, essential to the future success of the Port of Baltimore.

The advocates for this bill claim this is a safety bill. This is not a safety bill. In the two previous years that the General Assembly has considered crew size, no empirical data has been submitted that shows a link between railroad safety and the crew size. In fact, as crew sizes have decreased over the years, the implementation of advancements in technology have contributed to a reduction in accident rates, and the implementation of Positive Train Control will only contribute to this reduction further. Passing bills of this nature creates a false narrative that a larger crew size is the most critical factor to rail safety, which could deter future advancements in technology with the potential to have a far more significant impact on rail safety.

This legislation will also have a significant impact on the pending renewal of the State's access agreement with CSX for MARC Train Camden and Brunswick Line service. The net result of this will be as much as a $2.7 million impact on the State, which will undoubtedly impact MARC Train service and the 12,000 daily riders on both lines. Amtrak would face significantly increased costs as well, a train system that struggles financially as it is. It is not unreasonable to imagine a scenario where Amtrak eliminates its Washington–Cumberland–Pittsburgh–Chicago service, the Capitol Limited.

Maryland cannot afford to be at a competitive disadvantage to our neighboring states. The increased costs associated with this legislation, negative impact on the approximately 33,930 jobs generated by port activity, and potential to jeopardize the livelihood of Maryland workers who depend on a thriving Port of Baltimore is too harmful to allow this bill be become law.

For these reasons, I have vetoed House Bill 180.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

House Bill 180

AN ACT concerning

Railroad Company – Movement of Freight – Required Crew

FOR the purpose of prohibiting a train or light engine used in connection with the movement of freight from being operated in the State unless it has a certain number of crew members; providing for the application of this Act; establishing certain penalties; prohibiting a county or municipal corporation from enacting and enforcing more stringent measures regarding certain crew requirements; requiring the Commissioner of Labor and Industry to provide certain notice to the Department of Legislative Services under certain circumstances; providing for the termination of this Act under certain circumstances; *defining a certain term;* and generally relating to the crew for a train or light engine used in connection with the movement of freight.

BY adding to
Article – Labor and Employment
Section 5.5–110(e)
Annotated Code of Maryland
(2016 Replacement Volume and 2017 Supplement)

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

Article – Labor and Employment

5.5–110.

(E) (1) ***IN THIS SUBSECTION, "HIGH–SPEED PASSENGER OR COMMUTER TRAIN" DOES NOT INCLUDE A SEASONAL PASSENGER EXCURSION TRAIN.***

(2) **THIS SUBSECTION APPLIES TO A TRAIN OR LIGHT ENGINE USED IN CONNECTION WITH THE MOVEMENT OF RAILROAD FREIGHT THAT SHARES THE SAME RAIL CORRIDOR AS A HIGH–SPEED PASSENGER OR COMMUTER TRAIN.**

~~**(2)**~~ ***(3)*** **THIS SUBSECTION DOES NOT APPLY TO A TRAIN OR LIGHT ENGINE USED IN CONNECTION WITH THE MOVEMENT OF RAILROAD FREIGHT INVOLVING:**

(I) HOSTLER SERVICE; OR

(II) UTILITY EMPLOYEES IN YARD SERVICE.

~~**(3)**~~ ***(4)*** **A TRAIN OR LIGHT ENGINE USED IN CONNECTION WITH THE MOVEMENT OF RAILROAD FREIGHT MAY NOT BE OPERATED IN THE STATE UNLESS THE TRAIN OR LIGHT ENGINE HAS A CREW OF AT LEAST TWO INDIVIDUALS.**

~~(4)~~ *(5)* (I) A PERSON WHO WILLFULLY VIOLATES THIS SUBSECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO:

1. FOR A FIRST OFFENSE, A FINE OF $500; AND

2. FOR A SECOND OFFENSE AND ANY SUBSEQUENT OFFENSE COMMITTED WITHIN A PERIOD OF 3 YEARS OF THE SECOND OFFENSE, A FINE OF $1,000 FOR EACH OFFENSE.

(II) NOTWITHSTANDING SUBPARAGRAPH (I) OF THIS PARAGRAPH, A RAILROAD COMPANY SHALL BE SOLELY RESPONSIBLE FOR THE ACTIONS OF ITS AGENTS OR EMPLOYEES IN VIOLATION OF THIS SUBSECTION.

~~(5)~~ *(6)* A COUNTY OR MUNICIPAL CORPORATION MAY NOT ENACT AND ENFORCE MORE STRINGENT MEASURES REGARDING THE CREW REQUIREMENTS AUTHORIZED UNDER THIS SUBSECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That, if the Federal Railroad Administration issues a rule requiring two–person train crews on crude oil trains and establishing minimum crew size standards for most main line freight and passenger rail operations, within 5 days after the issuance of the rule, the Commissioner of Labor and Industry shall notify the Department of Legislative Services. On the date the Department of Legislative Services receives such notification, this Act shall be abrogated and of no further force and effect.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2018.

May 25, 2018

The Honorable Michael E. Busch
Speaker of the House
H–101 State House
Annapolis, MD 21401

Dear Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed House Bill 212 – *Criminal Law – Animal Cruelty – Sentencing Conditions.*

This bill authorizes a court, as a condition of sentencing, to prohibit a person convicted of the following offenses from owning, possessing, or residing with an animal for a specified

period of time: felony dogfighting; felony cockfighting; or, possession of an implement of dogfighting. The bill also clarifies that a court must specify a period of time when it uses its authority to prohibit a person convicted of felony aggravated animal cruelty from owning, possessing, or residing with an animal.

Senate Bill 1038, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 212.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

House Bill 212

AN ACT concerning

Criminal Law – Animal Cruelty – Sentencing Conditions ~~and Selling Ban~~

FOR the purpose of authorizing a court as a condition of ~~probation~~ sentencing to prohibit a defendant convicted of certain crimes relating to cruelty against animals from owning, possessing, or residing with an animal for a specified period of time~~, including the life of the defendant~~; ~~prohibiting a person convicted of certain crimes relating to cruelty against animals from selling, offering for sale, or trading an animal, with a certain exception;~~ and generally relating to animal cruelty.

BY repealing and reenacting, with amendments,
Article – Criminal Law
Section 10–606, 10–607, 10–607.1, and 10–608
Annotated Code of Maryland
(2012 Replacement Volume and 2017 Supplement)

~~BY adding to~~
~~Article – Criminal Law~~
~~Section 10–608.1~~
~~Annotated Code of Maryland~~
~~(2012 Replacement Volume and 2017 Supplement)~~

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

Article – Criminal Law

10–606.

(a) A person may not:

(1) intentionally:

(i) mutilate;

(ii) torture;

(iii) cruelly beat; or

(iv) cruelly kill an animal;

(2) cause, procure, or authorize an act prohibited under item (1) of this subsection; or

(3) except in the case of self–defense, intentionally inflict bodily harm, permanent disability, or death on an animal owned or used by a law enforcement unit.

(b) (1) A person who violates this section is guilty of the felony of aggravated cruelty to animals and on conviction is subject to imprisonment not exceeding 3 years or a fine not exceeding $5,000 or both.

(2) As a condition of sentencing, the court may**:**

(I) order a defendant convicted of violating this section to participate in and pay for psychological counseling~~.~~**; AND**

~~(3) As a condition of probation, the court may~~

(II) prohibit a defendant from owning, possessing, or residing with an animal **FOR A SPECIFIED PERIOD OF TIME**~~**, INCLUDING THE LIFE OF THE DEFENDANT**~~.

10–607.

(a) In this section, "baiting" means using a dog to train a fighting dog or to test the fighting or killing instinct of another dog.

(b) A person may not:

(1) use or allow a dog to be used in a dogfight or for baiting;

(2) arrange or conduct a dogfight;

(3) possess, own, sell, transport, or train a dog with the intent to use the dog in a dogfight or for baiting; or

(4) knowingly allow premises under the person's ownership, charge, or control to be used to conduct a dogfight or for baiting.

(c) (1) A person who violates this section is guilty of the felony of aggravated cruelty to animals and on conviction is subject to imprisonment not exceeding 3 years or a fine not exceeding $5,000 or both.

(2) As a condition of sentencing, the court may**:**

(I) order a defendant convicted of violating this section to participate in and pay for psychological counseling~~.~~**; AND**

~~**(3) AS A CONDITION OF PROBATION, THE COURT MAY**~~

(II) PROHIBIT A DEFENDANT FROM OWNING, POSSESSING, OR RESIDING WITH AN ANIMAL FOR A SPECIFIED PERIOD OF TIME~~, INCLUDING THE LIFE OF THE DEFENDANT~~.

10–607.1.

(a) (1) In this section, "implement of dogfighting" means an implement, an object, a device, or a drug intended or designed:

(i) to enhance the fighting ability of a dog; or

(ii) for use in a deliberately conducted event that uses a dog to fight with another dog.

(2) "Implement of dogfighting" includes:

(i) a breaking stick designed for insertion behind the molars of a dog to break the dog's grip on another animal or object;

(ii) a cat mill that rotates around a central support with one arm designed to secure a dog and one arm designed to secure a cat, rabbit, or other small animal beyond the grasp of the dog;

(iii) a springpole that has a biting surface attached to a stretchable device, suspended at a height sufficient to prevent an animal from reaching the biting surface while touching the ground;

(iv) a fighting pit or other confined area designed to contain a dogfight;

(v) a breeding stand or rape stand used to immobilize female dogs for breeding purposes; and

(vi) any other instrument or device that is commonly used in the training for, in the preparation for, in the conditioning for, in the breeding for, in the conducting of, or otherwise in furtherance of a dogfight.

(b) A person may not possess, with the intent to unlawfully use, an implement of dogfighting.

(c) (1) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 90 days or a fine not exceeding $5,000 or both.

(2) As a condition of sentencing, the court may**:**

(I) order a defendant convicted of violating this section to participate in and pay for psychological counseling~~.~~**; AND**

~~(3) AS A CONDITION OF PROBATION, THE COURT MAY~~

(II) PROHIBIT A DEFENDANT FROM OWNING, POSSESSING, OR RESIDING WITH AN ANIMAL FOR A SPECIFIED PERIOD OF TIME~~, INCLUDING THE LIFE OF THE DEFENDANT~~.

~~[~~(3)~~]~~ ~~(4)~~ Each implement of dogfighting possessed in violation of this section is a separate offense.

10–608.

(a) (1) In this section, "implement of cockfighting" means any implement or device intended or designed:

(i) to enhance the fighting ability of a fowl, cock, or other bird; or

(ii) for use in a deliberately conducted event that uses a fowl, cock, or other bird to fight with another fowl, cock, or other bird.

(2) "Implement of cockfighting" includes:

(i) a gaff;

(ii) a slasher;

(iii) a postiza;

(iv) a sparring muff; and

(v) any other sharp implement designed to be attached in place of the natural spur of a gamecock or other fighting bird.

(b) A person may not:

(1) use or allow the use of a fowl, cock, or other bird to fight with another animal;

(2) possess, with the intent to unlawfully use, an implement of cockfighting;

(3) arrange or conduct a fight in which a fowl, cock, or other bird fights with another fowl, cock, or other bird;

(4) possess, own, sell, transport, or train a fowl, cock, or other bird with the intent to use the fowl, cock, or other bird in a cockfight; or

(5) knowingly allow premises under the person's ownership, charge, or control to be used to conduct a fight in which a fowl, cock, or other bird fights with another fowl, cock, or other bird.

(c) (1) A person who violates this section is guilty of the felony of aggravated cruelty to animals and on conviction is subject to imprisonment not exceeding 3 years or a fine not exceeding $5,000 or both.

(2) As a condition of sentencing, the court may**:**

(I) order a defendant convicted of violating this section to participate in and pay for psychological counseling~~.~~**; AND**

~~**(3) AS A CONDITION OF PROBATION, THE COURT MAY**~~

(II) PROHIBIT A DEFENDANT FROM OWNING, POSSESSING, OR RESIDING WITH AN ANIMAL FOR A SPECIFIED PERIOD OF TIME~~**, INCLUDING THE LIFE OF THE DEFENDANT**~~**.**

~~**10–608.1.**~~

~~**(A) EXCEPT TO DISPOSE OF AN ANIMAL IN ACCORDANCE WITH A COURT ORDER, A PERSON MAY NOT SELL, OFFER FOR SALE, OR TRADE AN ANIMAL IF THE PERSON HAS PREVIOUSLY BEEN CONVICTED OF VIOLATING § 10–606, § 10–607, § 10–607.1, OR § 10–608 OF THIS SUBTITLE.**~~

~~**(B) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 1 YEAR OR A FINE NOT EXCEEDING $2,500 OR BOTH.**~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2018.

May 25, 2018

The Honorable Michael E. Busch
Speaker of the House
H–101 State House
Annapolis, MD 21401

Dear Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed House Bill 213 – *Alcoholic Beverages – Sale of Powdered Alcohol – Prohibition*.

This bill makes permanent the prohibition on selling or offering for sale alcoholic beverages that are sold in powder or crystalline form to be used directly or in combination with water or any other substance.

Senate Bill 253, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 213.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

House Bill 213

AN ACT concerning

Alcoholic Beverages – Sale of Powdered Alcohol – Prohibition

FOR the purpose of repealing a provision that provides for the termination of a prohibition on selling alcoholic beverages that are sold in a powder or crystalline form for direct use or use in combination with water or any other substance; and generally relating to a prohibition on the sale of powdered alcohol.

BY repealing and reenacting, without amendments,
Article – Alcoholic Beverages
Section 6–326
Annotated Code of Maryland

(2016 Volume and 2017 Supplement)

BY repealing and reenacting, with amendments,
Chapter 564 of the Acts of the General Assembly of 2016
Section 3

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

Article – Alcoholic Beverages

6–326.

(a) A person may not sell or offer for sale alcoholic beverages that are sold in powder or crystalline form for direct use or use in combination with water or any other substance.

(b) (1) A person who violates this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $1,000.

(2) Each violation of this section is a separate offense.

Chapter 564 of the Acts of 2016

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2016. **[**It shall remain effective for a period of 2 years and, at the end of June 30, 2018, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.**]**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~July~~ *June* 1, 2018.

May 25, 2018

The Honorable Michael E. Busch
Speaker of the House
State House
Annapolis, Maryland 21401

Dear Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed House Bill 335 – *State Personnel – Grievance Procedures – Exclusive Representatives*.

I was very pleased that our Administration successfully collectively bargained a three–year Memoranda of Understanding with AFSCME, AFT, and MPEC. In that MOU, there were specific provisions regarding the dispute resolution process, which rely on neutral fact finders and an appeal to the State Labor Relations Board.

House Bill 335 would ignore those collectively bargained provisions and instead would allow for an employee to file their grievance with the Office of Administrative Hearings and appeal to the circuit court as well. This would shift the cost of the grievance proceeding from the negotiated process, which shares the cost between the State and the unions, to one which would be borne entirely by the State.

This is an ill–advised attempt by the General Assembly to insert themselves into the collective bargaining process and to circumvent a good faith effort by our Administration to negotiate an agreed upon grievance process with the state employee unions.

Our Administration has worked for a number of years to collectively bargain a MOU with state employees unions, and to allow this legislation to undercut the hard work of our negotiating team, by overruling an explicitly negotiated process just months after the MOU was signed, degrades the spirit of the collective bargaining process.

The State's negotiating position is completely undermined when state employee unions can rely on the General Assembly to overrule the provisions of a negotiated MOU, and if legislation such as this were allowed to stand and continue, there would be no reason for either the State or unions to return to the bargaining table. Actions such as these create a breach of trust between the two parties, confuse and stymie the collective bargaining process, and undermines the balance of the collective bargaining process.

For these reasons, I have vetoed House Bill 335.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

House Bill 335

AN ACT concerning

State Personnel – Grievance Procedures ~~– Exclusive Representatives~~

FOR the purpose of expanding the application of certain provisions of law governing grievance procedures for certain *State* employees ~~in the State Personnel Management System to include certain exclusive representatives; authorizing certain exclusive representatives to present certain grievances free from coercion, discrimination, interference, reprisal, or restraint~~; requiring a grievant to complete certain forms in a certain manner for a certain purpose; applying a certain definition

of "grievance" to a certain requirement that the Department of Transportation adopt certain regulations relating to employee grievance procedures; altering a certain definition; defining a certain term; making a conforming change; and generally relating to grievance procedures and ~~exclusive representatives of~~ State employees.

BY repealing and reenacting, with amendments,
Article – State Personnel and Pensions
Section 12–101, 12–102, and ~~12–103(a)~~ 12–108
Annotated Code of Maryland
(2015 Replacement Volume and 2017 Supplement)

BY repealing and reenacting, with amendments,
Article – Transportation
Section 2–103.4(d)(2)
Annotated Code of Maryland
(2015 Replacement Volume and 2017 Supplement)

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

Article – State Personnel and Pensions

12–101.

(a) In this title the following words have the meanings indicated.

(b) "Employer" means one or more of the following:

(1) an employee's appointing authority;

(2) an employee's principal unit; or

(3) the Department of Budget and Management.

(C) "EXCLUSIVE REPRESENTATIVE" HAS THE MEANING STATED IN § 3–101 OF THIS ARTICLE.

[(c)**] (D)** (1) "Grievance" means a dispute between~~:~~

~~(I)~~ an employee and the employee's employer about the interpretation of and application to the employee of:

~~[~~(i)~~]~~ ~~1.~~ a personnel policy or regulation adopted by the Secretary; ~~or~~

~~[~~(ii)~~]~~ ~~2.~~ any other policy or regulation over which management has control**; OR**

~~(II) AN EXCLUSIVE REPRESENTATIVE AND AN EMPLOYER:~~

~~1. ABOUT THE INTERPRETATION AND APPLICATION OF:~~

~~A. A PERSONNEL POLICY OR REGULATION ADOPTED BY THE SECRETARY; OR~~

~~B. ANY OTHER POLICY OR REGULATION OVER WHICH MANAGEMENT HAS CONTROL; OR~~

~~2.~~ **(III)** ~~OVER~~ **ANY TERM OR CONDITION OF A MEMORANDUM OF UNDERSTANDING BETWEEN THE STATE AND THE EXCLUSIVE REPRESENTATIVE**.

(2) "Grievance" does not include a dispute about:

(i) a pay grade or range for a class;

(ii) the amount or the effective date of a statewide pay increase;

(iii) the establishment of a class;

(iv) the assignment of a class to a service category;

(v) the establishment of classification standards;

(vi) a mid–year performance appraisal; or

(vii) an oral reprimand or counseling.

12–102.

(a) Except as otherwise provided by law, this title applies to~~:~~

~~(1)~~ all employees in the State Personnel Management System within the Executive Branch~~; AND~~

~~(2) EACH EXCLUSIVE REPRESENTATIVE OF EMPLOYEES IN THE STATE PERSONNEL MANAGEMENT SYSTEM~~ **AND INDEPENDENT PERSONNEL SYSTEMS**, ***EXCEPT FOR THE DEPARTMENT OF TRANSPORTATION***~~, INCLUDING THE DEPARTMENT OF TRANSPORTATION~~.

(b) This title does not apply to:

(1) an employee who is appointed by the Governor whose appointment requires the Governor's approval;

(2) an employee in the executive service of the State Personnel Management System;

(3) a temporary employee;

(4) an attorney in the Office of the Attorney General or the Office of the Public Defender;

(5) a State Police officer;

(6) **[**an employee who is subject to a collective bargaining agreement that contains another grievance procedure;

(7)**]** an employee, including a member of a faculty, who is subject to a contract or regulation governing teacher tenure;

[(8)**] (7)** a member of the faculty, an officer, or an administrative employee of Baltimore City Community College;

[(9)**] (8)** a student employee;

[(10)**] (9)** an individual who, as an inmate or patient in an institution, is employed by the State; or

[(11)**] (10)** an administrative law judge in the Office of Administrative Hearings.

~~12–103.~~

~~(a) An employee with a grievance or the grievant's representative, OR AN EXCLUSIVE REPRESENTATIVE WITH A GRIEVANCE, may present the grievance free from coercion, discrimination, interference, reprisal, or restraint.~~

12–108.

(A) The Secretary shall:

(1) provide for forms for initiating and processing grievances; and

(2) make the forms available on the Department's Web site.

(B) THE GRIEVANT SHALL COMPLETE THE FORMS PROVIDED IN ACCORDANCE WITH SUBSECTION (A) OF THIS SECTION IN SUFFICIENT DETAIL THAT WILL ALLOW FOR THE EXPEDITIOUS RESOLUTION OF THE GRIEVANCE.

Article – Transportation

2–103.4.

(d) (2) The regulations shall address procedures for leave, appointment, hiring, promotion, layoff, removal, termination, redress of grievances**, AS DEFINED IN § ~~12–101~~ *12–101(D)* OF THE STATE PERSONNEL AND PENSIONS ARTICLE**, and reinstatement of employees and shall be presented to the Joint Committee on Administrative, Executive, and Legislative Review under Title 10, Subtitle 1 of the State Government Article.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2018.

May 25, 2018

The Honorable Michael E. Busch
Speaker of the House
H–101 State House
Annapolis, MD 21401

Dear Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed House Bill 394 – *Driver's Licenses – Learner's Permits – Minimum Duration*.

This bill reduces the period of time, from nine months to three months, during which certain adults younger than age 25 who hold a learner's instructional permit must wait before taking a driver skills examination or driver road examination for a provisional license. However, this waiting period is not reduced for such learner's instructional permit holders who have been convicted of, or granted probation before judgment for, a moving violation.

Senate Bill 424, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 394.

Sincerely,

Lawrence J. Hogan, Jr.

Governor

House Bill 394

AN ACT concerning

Driver's Licenses – Learner's Permits – Minimum Duration

FOR the purpose of reducing the period of time that certain individuals who are at least a certain age and who hold a learner's instructional permit are required to wait before taking certain examinations for a provisional driver's license; making a stylistic change; and generally relating to requirements for obtaining a provisional driver's license.

BY repealing and reenacting, with amendments,
Article – Transportation
Section 16–105(d) and 16–111(b)
Annotated Code of Maryland
(2012 Replacement Volume and 2017 Supplement)

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

Article – Transportation

16–105.

(d) (1) This subsection applies to an individual who:

(i) Seeks to obtain an original driver's license under this subtitle; and

(ii) Does not qualify for a learner's instructional permit under subsection (e) of this section.

(2) **[**An**]** **EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, AN** individual under the age of **[**25**]** **19** years who holds a learner's instructional permit may not take a driver skills examination or driver road examination for a provisional license:

(i) Sooner than 9 months following the later of:

1. The date that the individual first obtains the learner's instructional permit; or

2. The **MOST RECENT** date the individual was convicted of, or granted probation before judgment under § 6–220 of the Criminal Procedure Article for,

a moving violation;

(ii) Until after successful completion of:

1. The driver education program approved under Subtitle 5 of this title, consisting of at least 30 hours of classroom instruction and at least 6 hours of highway driving instruction; and

2. At least 60 hours, 10 hours of which must occur during the period beginning 30 minutes before sunset and ending 30 minutes after sunrise, of behind–the–wheel driving practice supervised by an individual who:

A. Holds a valid driver's license;

B. Is at least 21 years old; and

C. Has been licensed to drive for at least 3 years; and

(iii) Unless the individual submits, in accordance with the Administration's regulations, a completed skills log book signed by:

1. Each supervising driver who certifies that the individual has satisfactorily demonstrated a required skill and has completed the driving practice requirements of item (ii)2 of this paragraph; and

2. If a signature of a parent, guardian, or other person is required under § 16–107 of this subtitle, the parent, guardian, or other person who signs the individual's application under that section.

(3) AN INDIVIDUAL WHO HOLDS A LEARNER'S INSTRUCTIONAL PERMIT AND WHO IS 18 YEARS OLD AND HAS A HIGH SCHOOL DIPLOMA OR ITS EQUIVALENT OR IS AT LEAST 19 YEARS OLD BUT UNDER THE AGE OF 25 YEARS MAY NOT TAKE A DRIVER SKILLS EXAMINATION OR DRIVER ROAD EXAMINATION FOR A PROVISIONAL LICENSE:

(I) SOONER THAN THE LATER OF:

1. 3 MONTHS FOLLOWING THE DATE THAT THE INDIVIDUAL FIRST OBTAINS THE LEARNER'S INSTRUCTIONAL PERMIT; OR

2. 9 MONTHS FOLLOWING THE MOST RECENT DATE THE INDIVIDUAL WAS CONVICTED OF, OR GRANTED PROBATION BEFORE JUDGMENT FOR, A MOVING VIOLATION;

(II) UNTIL AFTER SUCCESSFUL COMPLETION OF:

1. A STANDARD DRIVER EDUCATION PROGRAM APPROVED UNDER SUBTITLE 5 OF THIS TITLE, CONSISTING OF AT LEAST 30 HOURS OF CLASSROOM INSTRUCTION AND AT LEAST 6 HOURS OF HIGHWAY DRIVING INSTRUCTION; AND

2. AT LEAST 60 HOURS, 10 HOURS OF WHICH MUST OCCUR DURING THE PERIOD BEGINNING 30 MINUTES BEFORE SUNSET AND ENDING 30 MINUTES AFTER SUNRISE, OF BEHIND–THE–WHEEL DRIVING PRACTICE SUPERVISED BY AN INDIVIDUAL WHO:

A. HOLDS A VALID DRIVER'S LICENSE;

B. IS AT LEAST 21 YEARS OLD; AND

C. HAS BEEN LICENSED TO DRIVE FOR AT LEAST 3 YEARS; AND

(III) UNLESS THE INDIVIDUAL SUBMITS, IN ACCORDANCE WITH THE ADMINISTRATION'S REGULATIONS, A COMPLETED SKILLS LOG BOOK SIGNED BY EACH SUPERVISING DRIVER WHO CERTIFIES THAT THE INDIVIDUAL HAS SATISFACTORILY DEMONSTRATED A REQUIRED SKILL AND HAS COMPLETED THE DRIVING PRACTICE REQUIREMENTS UNDER THIS PARAGRAPH.

[(3)**] (4)** An individual at least 25 years old who holds a learner's instructional permit and has not been convicted of, or granted probation before judgment for, a moving violation may not take a driver skills examination or driver road examination for a provisional license:

(i) Sooner than 45 days following the date that the individual first obtains the learner's instructional permit;

(ii) Until after successful completion of:

1. A standard driver education program approved under Subtitle 5 of this title, consisting of at least 30 hours of classroom instruction and at least 6 hours of highway driving instruction; and

2. At least 14 hours, 3 hours of which must occur during the period beginning 30 minutes before sunset and ending 30 minutes after sunrise, of behind–the–wheel driving practice supervised by an individual who:

A. Holds a valid driver's license;

B. Is at least 21 years old; and

C. Has been licensed to drive for at least 3 years; and

(iii) Unless the individual submits, in accordance with the Administration's regulations, a completed skills log book signed by each supervising driver who certifies that the individual has satisfactorily demonstrated a required skill and has completed the driving practice requirements under this paragraph.

[(4)**] (5)** An individual at least 25 years old who holds a learner's instructional permit and has been convicted of, or granted probation before judgment for, at least one moving violation may not take a driver skills examination or driver road examination for a provisional license:

(i) Sooner than 9 months following the most recent date the individual was convicted of, or granted probation before judgment for, a moving violation;

(ii) Until after successful completion of:

1. A standard driver education program approved under Subtitle 5 of this title, consisting of at least 30 hours of classroom instruction and at least 6 hours of highway driving instruction; and

2. At least 14 hours, 3 hours of which must occur during the period beginning 30 minutes before sunset and ending 30 minutes after sunrise, of behind–the–wheel driving practice supervised by an individual who:

A. Holds a valid driver's license;

B. Is at least 21 years old; and

C. Has been licensed to drive for at least 3 years; and

(iii) Unless the individual submits, in accordance with the Administration's regulations, a completed skills log book signed by each supervising driver who certifies that the individual has satisfactorily demonstrated a required skill and has completed the driving practice requirements under this paragraph.

[(5)**] (6)** A learner's instructional permit issued to an individual described in paragraph (1) of this subsection expires 2 years after the date of issuance.

16–111.

(b) An applicant is entitled to receive a provisional license if the applicant:

(1) Meets the minimum age required under § 16–103(c)(2) of this subtitle;

(2) Satisfies the learner's instructional permit requirements under §

16–105(d)(2), (3), **[**or**]** (4)**, OR (5)** of this subtitle;

(3) Passes a driver skills or driver road examination administered under this subtitle;

(4) Surrenders any learner's instructional permit issued to the applicant; and

(5) Pays the fee established under this subtitle.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2018.

May 25, 2018

The Honorable Michael E. Busch
Speaker of the House
H–101 State House
Annapolis, MD 21401

Dear Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed House Bill 454 – *Child Abuse and Neglect – Disclosure of Identifying Information*.

This bill requires a court to provide the Secretary of Health with identifying information regarding an individual who has been convicted of the murder, attempted murder, or manslaughter of a child. The bill alters, from 5 to 10 years, the period of time for which the Secretary of Health must provide birth record information to the Executive Director of the Social Services Administration (SSA); the 10–year period also applies to individuals whose identifying information has been provided by a court. The bill also adds a requirement for the Department of Human Services (DHS) to contract with an independent entity to develop a data collection process, as specified.

Senate Bill 490, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 454.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

House Bill 454

AN ACT concerning

Child Abuse and Neglect – Disclosure of Identifying Information ~~and Investigations~~

FOR the purpose of requiring a court to provide the Secretary of Health with identifying information regarding an individual who has been convicted under certain provisions of law of the murder, attempted murder, or manslaughter of a child; ~~requiring a local department to open an investigation of child abuse or neglect if the local department is prevented from accessing a child born to an individual whose identifying information has been provided to the Secretary under certain provisions of law while providing a certain assessment;~~ altering the period of time for which the Secretary must provide certain birth record information to the Executive Director of the Social Services Administration; requiring the Department of Human Services, in coordination with the Vital Statistics Administration of the Maryland Department of Health, to contract with an independent organization to develop a data collection process in order to assess, using certain criteria, the effectiveness of certain required record sharing in predicting and preventing various forms of child abuse and neglect, to explore other predictors of child abuse and neglect, and to make certain recommendations; making stylistic changes; and generally relating to child abuse and neglect.

BY repealing and reenacting, with amendments,
Article – Family Law
Section 5–715
Annotated Code of Maryland
(2012 Replacement Volume and 2017 Supplement)

BY repealing and reenacting, with amendments,
Article – Health – General
Section 4–222
Annotated Code of Maryland
(2015 Replacement Volume and 2017 Supplement)

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

Article – Family Law

5–715.

(a) **(1)** The Executive Director of the Administration shall provide the Secretary of Health with identifying information regarding **[**individuals**]** **AN INDIVIDUAL** who, as to any child, **[**have**]** **HAS** had **[**their**]** **THE INDIVIDUAL'S** parental rights terminated

under § 5–322 or § 5–323 of this title and **[**have**]** **HAS** been identified as responsible for abuse or neglect in a central registry as described in § 5–714(d) of this subtitle.

(2) A COURT SHALL PROVIDE THE SECRETARY OF HEALTH WITH IDENTIFYING INFORMATION REGARDING AN INDIVIDUAL WHO HAS BEEN CONVICTED UNDER TITLE 2, SUBTITLE 2 OF THE CRIMINAL LAW ARTICLE OF THE MURDER, ATTEMPTED MURDER, OR MANSLAUGHTER OF A CHILD.

(b) If in accordance with § 4–222 of the Health – General Article, the Secretary provides to the Executive Director birth record information for a child born to an individual whose identifying information has been provided under subsection (a) of this section, the Executive Director shall:

(1) verify that the parent of the child is the same individual described in subsection (a) of this section; and

(2) immediately notify the local department in the jurisdiction in which the child resides so that the local department may review its records and**[**, when appropriate,**]** provide an assessment of the family and offer services if needed.

~~**(C) A LOCAL DEPARTMENT SHALL OPEN AN INVESTIGATION IF THE LOCAL DEPARTMENT IS PREVENTED FROM ACCESSING THE CHILD WHILE PROVIDING AN ASSESSMENT UNDER SUBSECTION (B) OF THIS SECTION.**~~

Article – Health – General

4–222.

The Secretary shall provide to the Executive Director of the Social Services Administration in the Department of Human Services birth record information for a child born to an individual whose identifying information has been provided to the Secretary within the previous **[**5**]** ~~**20**~~ **10** years by the Executive Director **OR A COURT** under § 5–715 of the Family Law Article.

SECTION 2. AND BE IT FURTHER ENACTED, That the Department of Human Services, in coordination with the Vital Statistics Administration of the Maryland Department of Health, shall contract with an independent entity to develop a data collection process to assess the effectiveness of current procedures requiring the sharing of certain records between the Social Services Administration and the Maryland Department of Health in predicting and preventing child abuse and neglect by calculating the sensitivity, specificity, and the positive or negative predictive value of current procedures, exploring other predictors of child abuse and neglect, and making recommendations on how to better target record–sharing activities.

SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2018.

May 25, 2018

The Honorable Michael E. Busch
Speaker of the House
H–101 State House
Annapolis, MD 21401

Dear Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed House Bill 460 – *Montgomery County – Fire and Explosive Investigator – Definition*.

This bill alters the definition of "Montgomery County fire and explosive investigator" to specify that a Montgomery County fire and explosive investigator is an individual who is assigned full time to the Fire and Explosive Investigations Unit of the Montgomery County Fire and Rescue Service, rather than the Montgomery County Fire Marshal's Office.

Senate Bill 1037, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 460.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

House Bill 460

AN ACT concerning

Montgomery County – Fire and Explosive Investigator – Definition

FOR the purpose of altering a certain definition to provide that a Montgomery County fire and explosive investigator is an individual who is assigned full time to the Fire and Explosive Investigations ~~Section~~ *Unit* of the Montgomery County Fire and Rescue Service, rather than the Montgomery County Fire Marshal's Office; and generally relating to fire and explosive investigators.

BY repealing and reenacting, with amendments,
Article – Criminal Procedure
Section 2–208.1(a)
Annotated Code of Maryland
(2008 Replacement Volume and 2017 Supplement)

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

Article – Criminal Procedure

2–208.1.

(a) In this section, "Montgomery County fire and explosive investigator" means an individual who:

(1) is assigned full time to the Fire and Explosive Investigations ~~Section~~ ***UNIT*** of the Montgomery County Fire **[**Marshal's Office**]** **AND RESCUE SERVICE** and is a paid employee;

(2) has been employed by the Montgomery County Fire and Rescue Service as a firefighter/rescuer for at least 5 years;

(3) has successfully completed a training program from a police training school approved by the Police Training Commission established under Title 3, Subtitle 2 of the Public Safety Article; and

(4) at all times maintains active certification by the Police Training Commission.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2018.

May 25, 2018

The Honorable Michael E. Busch
Speaker of the House
H–101 State House
Annapolis, MD 21401

Dear Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed House Bill 490 – *Public Health – Community Health Workers – Advisory Committee and Certification*.

This bill establishes the State Community Health Worker Advisory Committee within the Maryland Department of Health (MDH) and requires MDH to adopt specified regulations related to the training and certification of community health workers in the State. The bill also establishes the State Community Health Workers Fund.

Uncodified language specifies that it is the intent of the General Assembly that general funds be used to support MDH and the advisory committee in fiscal 2019. When special funds become available, the general fund must be reimbursed for start–up costs.

Senate Bill 163, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 490.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

House Bill 490

AN ACT concerning

Public Health – Community Health Workers – Advisory Committee and Certification

FOR the purpose of establishing the State Community Health Worker Advisory Committee; providing for the composition of the Advisory Committee; providing for the qualifications, terms, and removal of certain members of the Advisory Committee; providing for the chair and officers of the Advisory Committee; specifying that a majority of the members then serving on the Advisory Committee is a quorum; requiring the Advisory Committee to meet at least a certain number of times each year at certain times and places to make certain recommendations; requiring the Maryland Department of Health to provide certain support and technical assistance to the Advisory Committee; requiring that certain written materials be provided in the preferred language of the Advisory Committee members, as necessary; requiring that training or educational opportunities be made available to Advisory Committee members on certain processes; specifying that an Advisory Committee member is entitled to certain reimbursement for certain expenses; requiring the Advisory Committee to advise the Department on certain matters relating to the certification and training of community health workers; providing that, subject to a certain exception, a certified community health worker training program must be approved by the Department before operating in the State; providing that certain apprenticeship programs may be accredited by the Department as community health worker training programs; requiring the Department to adopt certain regulations for accrediting certified community health worker training programs; requiring the Department to adopt regulations relating to the certification of community health workers; authorizing the Department to adopt certain regulations related to the certification of community health workers; authorizing the Department to adopt certain regulations recommended by the Advisory Committee; specifying the duties of the Department regarding the certification of community health workers; authorizing the Department to certify an individual to practice as a community health worker in the State; establishing qualifications for a certain certification; ~~establishing certain certification application, issuance, and renewal procedures;~~

~~establishing procedures for placing a certificate on inactive status, reactivating a certificate, and providing notice for nonrenewal of a certificate;~~ requiring the Department to establish a deadline after which an individual must be certified under this Act to make certain representations; prohibiting a certain individual from making a certain representation to the public after a certain date; providing that an individual who violates a certain provision of this Act is subject to a certain penalty; establishing the State Community Health Workers Fund; authorizing the Department to set certain fees for a certain purpose; providing for the purpose, operation, and uses of the Fund; specifying that the Fund is a special, nonlapsing fund not subject to a certain provision of law; prohibiting unspent portions of the Fund from reverting to the General Fund; specifying that a person who gives certain information to the Department or Advisory Committee or otherwise participates in certain activities has a certain immunity from liability; providing for the terms of the initial appointed members of the Advisory Committee; requiring the Advisory Committee to hold its first meeting within a certain time period after the Governor has appointed the last initial member of the Advisory Committee; declaring the intent of the General Assembly regarding the initial funding of certain Department activities and reimbursement of the General Fund under certain circumstances; defining certain terms; and generally relating to the State Community Health Worker Advisory Committee and the certification of community health workers.

BY adding to
Article – Health – General
Section 13–3601 through 13–3609 to be under the new subtitle "Subtitle 36. Community Health Workers"
Annotated Code of Maryland
(2015 Replacement Volume and 2017 Supplement)

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

Article – Health – General

SUBTITLE 36. COMMUNITY HEALTH WORKERS.

13–3601.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) "ADVISORY COMMITTEE" MEANS THE STATE COMMUNITY HEALTH WORKER ADVISORY COMMITTEE.

(C) "COMMUNITY HEALTH WORKER" MEANS A FRONTLINE PUBLIC HEALTH WORKER WHO:

(1) IS A TRUSTED MEMBER OF, OR HAS AN UNUSUALLY CLOSE UNDERSTANDING OF, THE COMMUNITY BEING SERVED;

(2) SERVES AS A LIAISON TO, LINK TO, OR INTERMEDIARY BETWEEN HEALTH AND SOCIAL SERVICES AND THE COMMUNITY TO:

(I) FACILITATE ACCESS TO SERVICES; AND

(II) IMPROVE THE QUALITY AND CULTURAL COMPETENCE OF SERVICE DELIVERY; AND

(3) BUILDS INDIVIDUAL AND COMMUNITY CAPACITY BY INCREASING HEALTH KNOWLEDGE AND SELF–SUFFICIENCY THROUGH A RANGE OF ACTIVITIES, INCLUDING:

(I) OUTREACH;

(II) COMMUNITY EDUCATION;

(III) ~~INFORMAL COUNSELING~~ THE PROVISION OF INFORMATION TO SUPPORT INDIVIDUALS IN THE COMMUNITY;

(IV) SOCIAL SUPPORT; AND

(V) ADVOCACY.

(D) "FUND" MEANS THE STATE COMMUNITY HEALTH WORKERS FUND ESTABLISHED UNDER § 13–3607 OF THIS SUBTITLE.

13–3602.

(A) THERE IS A STATE COMMUNITY HEALTH WORKER ADVISORY COMMITTEE.

(B) THE ADVISORY COMMITTEE CONSISTS OF THE FOLLOWING MEMBERS:

(1) THE SECRETARY OF HEALTH, OR THE SECRETARY'S DESIGNEE; AND

(2) THE FOLLOWING MEMBERS APPOINTED BY THE GOVERNOR, WITH THE ADVICE AND CONSENT OF THE SENATE:

(I) ~~SEVEN~~ NINE COMMUNITY HEALTH WORKERS;

(II) ONE REGISTERED NURSE WITH EXPERIENCE IN COMMUNITY HEALTH;

(III) ONE LICENSED SOCIAL WORKER WITH EXPERIENCE IN COMMUNITY HEALTH;

(IV) ONE REPRESENTATIVE OF A COMMUNITY HEALTH WORKER TRAINING ORGANIZATION;

(V) ONE REPRESENTATIVE OF THE MARYLAND PUBLIC HEALTH ASSOCIATION;

(VI) ONE REPRESENTATIVE OF A COMMUNITY–BASED EMPLOYER OF COMMUNITY HEALTH WORKERS;

(VII) ONE MEMBER OF THE PUBLIC WHO IS FAMILIAR WITH THE SERVICES OF COMMUNITY HEALTH WORKERS; ~~AND~~

(VIII) ONE REPRESENTATIVE OF THE MARYLAND ASSOCIATION OF COUNTY HEALTH OFFICERS;

(IX) ONE REPRESENTATIVE OF THE MARYLAND HOSPITAL ASSOCIATION; AND

(X) ONE REPRESENTATIVE OF THE COMMUNITY BEHAVIORAL HEALTH ASSOCIATION OF MARYLAND.

(C) EACH ADVISORY COMMITTEE MEMBER MUST BE A RESIDENT OF THE STATE.

(D) (1) THE TERM OF AN APPOINTED MEMBER IS 4 YEARS.

(2) THE TERMS OF THE APPOINTED MEMBERS ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR THE APPOINTED MEMBERS OF THE ADVISORY COMMITTEE ON OCTOBER 1, 2018.

(3) AT THE END OF A TERM, AN APPOINTED MEMBER CONTINUES TO SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(4) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(5) AN APPOINTED MEMBER MAY NOT SERVE MORE THAN TWO CONSECUTIVE FULL TERMS.

(6) TO THE EXTENT PRACTICABLE, THE GOVERNOR SHALL FILL ANY VACANCY ON THE ADVISORY COMMITTEE WITHIN 60 DAYS AFTER THE DATE OF THE VACANCY.

(E) (1) THE GOVERNOR MAY REMOVE AN APPOINTED MEMBER FOR INCOMPETENCE, MISCONDUCT, INCAPACITY, OR NEGLECT OF DUTY.

(2) ON THE RECOMMENDATION OF THE SECRETARY, THE GOVERNOR MAY REMOVE AN APPOINTED MEMBER WHOM THE SECRETARY FINDS TO HAVE BEEN ABSENT FROM TWO SUCCESSIVE ADVISORY COMMITTEE MEETINGS WITHOUT ADEQUATE REASON.

13–3603.

(A) (1) THE SECRETARY OF HEALTH, OR THE SECRETARY'S DESIGNEE, SHALL SERVE AS THE CHAIR OF THE ADVISORY COMMITTEE.

(2) (I) FROM AMONG ITS APPOINTED MEMBERS, THE ADVISORY COMMITTEE ANNUALLY SHALL ELECT A VICE CHAIR AND A SECRETARY.

(II) THE ADVISORY COMMITTEE SHALL DETERMINE:

1. THE MANNER OF ELECTION OF THE VICE CHAIR AND THE SECRETARY; AND

2. THE DUTIES OF EACH OFFICER.

(B) A MAJORITY OF THE MEMBERS THEN SERVING ON THE ADVISORY COMMITTEE IS A QUORUM.

(C) THE ADVISORY COMMITTEE SHALL MEET AT LEAST TWO TIMES EACH YEAR, AT THE TIMES AND PLACES THAT THE ADVISORY COMMITTEE DETERMINES, TO MAKE RECOMMENDATIONS REGARDING THE ITEMS LISTED UNDER § 13–3604 OF THIS SUBTITLE.

(D) A MEMBER OF THE ADVISORY COMMITTEE IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

(E) THE DEPARTMENT SHALL PROVIDE STAFF SUPPORT AND TECHNICAL ASSISTANCE FOR THE ADVISORY COMMITTEE.

(F) WRITTEN MATERIALS USED TO CONDUCT THE BUSINESS OF THE ADVISORY COMMITTEE SHALL BE PROVIDED IN THE PREFERRED LANGUAGE OF THE ADVISORY COMMITTEE MEMBERS, AS NECESSARY.

(G) TRAINING OR EDUCATIONAL OPPORTUNITIES SHALL BE MADE AVAILABLE TO ADVISORY COMMITTEE MEMBERS ON THE FORMAL AND INFORMAL PROCESSES THAT WILL BE USED TO CONDUCT THE BUSINESS OF THE ADVISORY COMMITTEE.

13–3604.

~~THE~~ **AFTER SEEKING INPUT FROM THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION, THE MARYLAND HIGHER EDUCATION COMMISSION, THE MARYLAND RURAL HEALTH ASSOCIATION, THE MARYLAND ACADEMY OF NUTRITION AND DIETETICS, THE MARYLAND STATE DENTAL ASSOCIATION, COMMUNITY AND HOSPITAL EMPLOYERS OF COMMUNITY HEALTH WORKERS, AND INSTITUTIONS OF POSTSECONDARY EDUCATION WITH PROGRAMS IN NURSING, SOCIAL WORK, AND DIETETICS, THE ADVISORY COMMITTEE SHALL ADVISE THE DEPARTMENT ON:**

(1) COMMUNITY HEALTH WORKER TRAINING PROGRAMS, INCLUDING TIERS OF TRAINING;

(2) FEES FOR THE ISSUANCE AND RENEWAL OF CERTIFICATES AND OTHER SERVICES;

(3) GRANDFATHERING PROVISIONS;

(4) ~~CRIMINAL BACKGROUND CHECKS REQUIRED FOR CERTIFICATION;~~

~~(5)~~ CRITERIA FOR THE DENIAL OF A CERTIFICATION APPLICATION, REPRIMAND OF A CERTIFICATE HOLDER, PLACING A CERTIFICATE HOLDER ON PROBATION, OR SUSPENSION OR REVOCATION OF A CERTIFICATE;

~~(6)~~ (5) HEARING PROCEDURES BEFORE THE DEPARTMENT TAKES ANY DISCIPLINARY ACTION LISTED UNDER ITEM ~~(5)~~ (4) OF THIS SECTION;

~~(7)~~ (6) APPEAL PROCEDURES FOR A PERSON AGGRIEVED BY A DECISION OF THE DEPARTMENT;

~~(8)~~ (7) CRITERIA FOR THE REINSTATEMENT OF A SUSPENDED OR REVOKED CERTIFICATE; ~~AND~~

~~(9)~~ (8) PENALTIES FOR VIOLATIONS OF THIS SUBTITLE; AND

(9) THE APPROPRIATE TERM OF A CERTIFICATE AND RENEWAL PROCEDURES.

13–3605.

(A) (1) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, A CERTIFIED COMMUNITY HEALTH WORKER TRAINING PROGRAM MUST BE ACCREDITED BY THE DEPARTMENT BEFORE OPERATING IN THE STATE.

(II) A CERTIFIED COMMUNITY HEALTH WORKER TRAINING PROGRAM IN OPERATION ON OCTOBER 1, 2018, MAY CONTINUE TO OPERATE UNTIL THE DEADLINE ESTABLISHED BY THE DEPARTMENT UNDER PARAGRAPH (3)(I)2 OF THIS SUBSECTION.

(III) AN APPRENTICESHIP PROGRAM REGISTERED WITH THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION MAY BE ACCREDITED BY THE DEPARTMENT AS A CERTIFIED COMMUNITY HEALTH WORKER TRAINING PROGRAM.

(2) THE DEPARTMENT, WORKING IN COLLABORATION WITH THE ADVISORY COMMITTEE, SHALL ADOPT REGULATIONS ESTABLISHING A PROCEDURE FOR ACCREDITING COMMUNITY HEALTH WORKER TRAINING PROGRAMS.

(3) (I) THE REGULATIONS ADOPTED UNDER THIS SUBSECTION SHALL INCLUDE:

1. A DEADLINE BEFORE WHICH CERTIFIED COMMUNITY HEALTH WORKER TRAINING PROGRAMS IN OPERATION ON OCTOBER 1, 2018, MUST APPLY FOR ACCREDITATION; AND

2. A DEADLINE BEFORE WHICH THE DEPARTMENT WILL MAKE A DECISION REGARDING ACCREDITATION APPLICATIONS.

(II) THE DEPARTMENT SHALL CONSULT WITH COMMUNITY HEALTH WORKER TRAINING PROGRAMS IN ESTABLISHING THE TIME FRAMES REQUIRED UNDER THIS PARAGRAPH.

(4) THE REGULATIONS ADOPTED UNDER THIS SUBSECTION SHALL INCLUDE:

(I) A PROCEDURE FOR REVIEWING A CERTIFIED COMMUNITY HEALTH WORKER TRAINING PROGRAM'S APPLICATION;

(II) CURRICULUM REQUIREMENTS;

(III) A PROCESS THROUGH WHICH AN INDIVIDUAL WORKING AS A COMMUNITY HEALTH WORKER ON OCTOBER 1, 2018, AND WHO ALREADY POSSESSES THE KNOWLEDGE TAUGHT IN A COMMUNITY HEALTH WORKER TRAINING PROGRAM ACCREDITED BY THE DEPARTMENT UNDER THIS SECTION, MAY BE EXEMPTED FROM THE TRAINING REQUIRED UNDER § 13–3606(B)(1) OF THIS SUBTITLE;

(IV) REQUIREMENTS FOR PERIODIC REVIEW OF AN ACCREDITED CERTIFIED COMMUNITY HEALTH WORKER TRAINING PROGRAM;

(V) A PROCESS BY WHICH THE DEPARTMENT SHALL NOTIFY A CERTIFIED COMMUNITY HEALTH WORKER TRAINING PROGRAM IN OPERATION ON OCTOBER 1, 2018, OF ANY CHANGES NEEDED TO COMPLY WITH THE DEPARTMENT'S ACCREDITATION REQUIREMENTS;

(VI) A REASONABLE DEADLINE BEFORE WHICH A CERTIFIED COMMUNITY HEALTH WORKER TRAINING PROGRAM IN OPERATION ON OCTOBER 1, 2018, IS REQUIRED TO COMPLY WITH THE DEPARTMENT'S ACCREDITATION REQUIREMENTS; AND

(VII) A PROCESS BY WHICH THE DEPARTMENT MAY REVOKE A CERTIFIED COMMUNITY HEALTH WORKER TRAINING PROGRAM'S ACCREDITATION THAT ALLOWS FOR AN ADEQUATE HEARING AND CHANCE FOR APPEAL.

(B) THE DEPARTMENT, WORKING IN COLLABORATION WITH THE ADVISORY COMMITTEE, SHALL:

(1) ADOPT INITIAL REGULATIONS FOR THE CERTIFICATION OF COMMUNITY HEALTH WORKERS THAT ESTABLISH:

(I) THAT ANY INDIVIDUAL WHO COMPLETES A COMMUNITY HEALTH WORKER TRAINING PROGRAM ACCREDITED BY THE DEPARTMENT UNDER SUBSECTION (A) OF THIS SECTION IS A QUALIFIED COMMUNITY HEALTH WORKER APPLICANT; AND

(II) AN INITIAL FEE FOR THE CERTIFICATION OF COMMUNITY HEALTH WORKERS, NOT TO EXCEED $75, WHICH SHALL BE ADJUSTED AS ADVISED BY THE ADVISORY COMMITTEE;

~~(2) ADOPT ANY ADDITIONAL REGULATIONS RECOMMENDED BY THE ADVISORY COMMITTEE FOR THE CERTIFICATION OF COMMUNITY HEALTH WORKERS;~~

~~(3)~~ (2) KEEP A CURRENT RECORD OF ALL CERTIFIED COMMUNITY HEALTH WORKERS;

~~(4)~~ (3) COLLECT AND ACCOUNT FOR FEES PROVIDED FOR UNDER THIS SUBTITLE;

~~(5)~~ (4) PAY ALL NECESSARY EXPENSES ASSOCIATED WITH CERTIFYING COMMUNITY HEALTH WORKERS IN ACCORDANCE WITH THE STATE BUDGET;

~~(6)~~ (5) KEEP A COMPLETE RECORD OF PROCEEDINGS RELATING TO CERTIFIED COMMUNITY HEALTH WORKERS; AND

~~(7) SUBMIT TO THE GOVERNOR AN ANNUAL REPORT OF ITS ACTIVITIES RELATING TO COMMUNITY HEALTH WORKERS THAT INCLUDES:~~

~~(I) A FINANCIAL STATEMENT; AND~~

~~(II) A PLAN FOR SPECIAL FUND REVENUES.~~

(6) MAINTAIN A LIST OF CERTIFIED COMMUNITY HEALTH WORKERS ON ITS WEBSITE TO ALLOW EMPLOYERS AND CONSUMERS TO VERIFY THE CERTIFICATION STATUS OF COMMUNITY HEALTH WORKERS.

(C) THE DEPARTMENT MAY ADOPT REGULATIONS ON THE PROCEDURES FOR:

(1) DENYING A CERTIFICATION APPLICATION;

(2) SUSPENDING AND REVOKING CERTIFICATES;

(3) RENEWING CERTIFICATES; AND

(4) OTHERWISE REGULATING THE CERTIFICATION OF COMMUNITY HEALTH WORKERS.

(D) THE DEPARTMENT MAY ADOPT ANY ADDITIONAL REGULATIONS RECOMMENDED BY THE ADVISORY COMMITTEE FOR THE CERTIFICATION OF COMMUNITY HEALTH WORKERS.

13–3606.

(A) THE DEPARTMENT MAY CERTIFY AN INDIVIDUAL TO PRACTICE AS A COMMUNITY HEALTH WORKER IN THE STATE.

(B) TO QUALIFY FOR CERTIFICATION, AN APPLICANT SHALL:

(1) (I) HAVE COMPLETED A COMMUNITY HEALTH WORKER TRAINING PROGRAM ACCREDITED BY THE DEPARTMENT UNDER § 13–3605 OF THIS SUBTITLE; OR

(II) BE EXEMPTED BY THE DEPARTMENT FROM THE TRAINING REQUIRED UNDER ITEM (I) OF THIS ITEM; AND

(2) MEET ANY OTHER REQUIREMENTS ESTABLISHED BY THE DEPARTMENT.

(C) TO APPLY FOR CERTIFICATION AS A COMMUNITY HEALTH WORKER, AN APPLICANT SHALL:

(1) SUBMIT AN APPLICATION TO THE DEPARTMENT ON THE FORM THAT THE DEPARTMENT REQUIRES; AND

(2) PAY ANY FEE AND SUBMIT ANY ADDITIONAL MATERIALS REQUIRED BY THE DEPARTMENT.

(D) THE DEPARTMENT SHALL ISSUE A CERTIFICATE TO ANY APPLICANT WHO MEETS THE REQUIREMENTS OF SUBSECTION (B) OF THIS SECTION.

(E) THE DEPARTMENT SHALL INCLUDE ON EACH CERTIFICATE THAT THE DEPARTMENT ISSUES:

(1) THE FULL NAME OF THE CERTIFICATE HOLDER;

(2) THE DATES OF ISSUANCE AND EXPIRATION;

(3) A SERIAL NUMBER; AND

(4) THE SIGNATURE OF THE DEPARTMENT'S REPRESENTATIVE.

(F) (1) THE DEPARTMENT SHALL ESTABLISH A DEADLINE AFTER WHICH AN INDIVIDUAL MUST BE CERTIFIED UNDER THIS SUBTITLE TO MAKE REPRESENTATIONS TO THE PUBLIC THAT THE INDIVIDUAL IS A CERTIFIED COMMUNITY HEALTH WORKER.

(2) ON OR AFTER THE DATE SET UNDER PARAGRAPH (1) OF THIS SUBSECTION, UNLESS CERTIFIED AS A COMMUNITY HEALTH WORKER UNDER THIS SUBTITLE, AN INDIVIDUAL MAY NOT REPRESENT TO THE PUBLIC BY TITLE THAT THE INDIVIDUAL IS CERTIFIED AS A COMMUNITY HEALTH WORKER.

(3) AN INDIVIDUAL WHO VIOLATES PARAGRAPH (2) OF THIS SUBSECTION IS SUBJECT TO A PENALTY DETERMINED AND COLLECTED BY THE DEPARTMENT.

~~(F) (1) A CERTIFICATE EXPIRES ON THE DATE SPECIFIED ON THE CERTIFICATE, UNLESS IT IS RENEWED FOR A 2–YEAR TERM AS PROVIDED IN THIS SUBSECTION.~~

~~(2) AT LEAST 1 MONTH BEFORE THE CERTIFICATE EXPIRES, THE DEPARTMENT SHALL SEND TO THE CERTIFICATE HOLDER, BY ELECTRONIC MEANS OR BY FIRST–CLASS MAIL, A RENEWAL NOTICE THAT STATES:~~

~~(I) THE DATE ON WHICH THE CURRENT CERTIFICATE EXPIRES;~~

~~(II) THE DATE BY WHICH THE RENEWAL APPLICATION MUST BE RECEIVED BY THE DEPARTMENT FOR THE RENEWAL TO BE ISSUED AND MAILED BEFORE THE CERTIFICATE EXPIRES;~~

~~(III) THE AMOUNT OF THE RENEWAL FEE; AND~~

~~(IV) THE HOURS OF CONTINUING EDUCATION REQUIRED FOR RENEWAL OF THE CERTIFICATION.~~

~~(3) BEFORE THE CERTIFICATE EXPIRES, THE CERTIFICATE HOLDER MAY RENEW THE CERTIFICATE FOR AN ADDITIONAL 2–YEAR TERM IF THE CERTIFICATE HOLDER:~~

~~(I) OTHERWISE IS ENTITLED TO BE CERTIFIED;~~

~~(II) PAYS THE RENEWAL FEE SET BY THE DEPARTMENT;~~

~~(III) SUBMITS A RENEWAL APPLICATION ON THE FORM THAT THE DEPARTMENT REQUIRES; AND~~

~~(IV) SUBMITS PROOF THAT DURING THE PREVIOUS 2–YEAR PERIOD, THE CERTIFICATE HOLDER HAS COMPLETED ANY CONTINUING EDUCATION REQUIRED BY THE DEPARTMENT.~~

~~(4) (I) THE DEPARTMENT SHALL RENEW THE CERTIFICATE OF EACH CERTIFICATE HOLDER WHO MEETS THE REQUIREMENTS OF THIS SECTION.~~

~~(II) THE RENEWAL CERTIFICATE SHALL USE THE SAME SERIAL NUMBER ASSIGNED TO THE CERTIFICATE HOLDER AT THE TIME OF THE ORIGINAL CERTIFICATION.~~

~~(G) A CERTIFICATE HOLDER SHALL NOTIFY THE DEPARTMENT OF ANY CHANGE IN THE ADDRESS OF THE CERTIFICATE HOLDER WITHIN 60 DAYS AFTER THE CHANGE OCCURS.~~

~~(H) (1) (I) THE DEPARTMENT SHALL PLACE A CERTIFIED COMMUNITY HEALTH WORKER ON INACTIVE STATUS FOR A PERIOD NOT TO EXCEED 4 YEARS IF THE CERTIFIED COMMUNITY HEALTH WORKER:~~

~~1. SUBMITS A WRITTEN APPLICATION FOR INACTIVE STATUS ON A FORM THE DEPARTMENT REQUIRES; AND~~

~~2. PAYS THE INACTIVE STATUS FEE SET BY THE DEPARTMENT.~~

~~(II) THE DEPARTMENT SHALL PROVIDE TO A CERTIFIED COMMUNITY HEALTH WORKER WHO IS PLACED ON INACTIVE STATUS WRITTEN NOTIFICATION OF:~~

~~1. THE DATE THE CERTIFICATE HAS EXPIRED OR WILL EXPIRE;~~

~~2. THE DATE THE CERTIFIED COMMUNITY HEALTH WORKER'S INACTIVE STATUS BECAME EFFECTIVE;~~

~~3. THE DATE THE CERTIFIED COMMUNITY HEALTH WORKER'S INACTIVE STATUS EXPIRES; AND~~

~~4. THE CONSEQUENCES OF NOT REACTIVATING THE CERTIFICATE BEFORE THE INACTIVE STATUS EXPIRES.~~

~~(III) THE DEPARTMENT SHALL REACTIVATE THE CERTIFICATE OF A CERTIFIED COMMUNITY HEALTH WORKER WHO IS ON INACTIVE STATUS IF THE CERTIFIED COMMUNITY HEALTH WORKER:~~

~~1. APPLIES TO THE DEPARTMENT FOR REACTIVATION OF THE CERTIFICATE BEFORE THE INACTIVE STATUS EXPIRES;~~

~~2. COMPLIES WITH THE CERTIFICATE RENEWAL REQUIREMENTS THAT ARE IN EFFECT WHEN THE CERTIFIED COMMUNITY HEALTH WORKER APPLIES FOR REACTIVATION;~~

~~3. HAS COMPLETED THE NUMBER OF CREDIT HOURS OF APPROVED CONTINUING EDUCATION SET BY THE DEPARTMENT; AND~~

~~4. PAYS THE REACTIVATION PROCESSING FEE SET BY THE DEPARTMENT.~~

~~(2) (I) THE DEPARTMENT SHALL PLACE A CERTIFIED COMMUNITY HEALTH WORKER ON NONRENEWED STATUS FOR A PERIOD NOT TO EXCEED 4 YEARS IF THE CERTIFIED COMMUNITY HEALTH WORKER FAILED TO RENEW THE CERTIFICATE FOR ANY REASON.~~

~~(II) THE DEPARTMENT SHALL PROVIDE TO A CERTIFIED COMMUNITY HEALTH WORKER WHO IS PLACED ON NONRENEWED STATUS WRITTEN NOTIFICATION OF:~~

~~1. THE DATE THE CERTIFICATE EXPIRED;~~

~~2. THE DATE THE CERTIFIED COMMUNITY HEALTH WORKER'S NONRENEWED STATUS BECAME EFFECTIVE;~~

~~3. THE DATE THE CERTIFIED COMMUNITY HEALTH WORKER'S NONRENEWED STATUS EXPIRES; AND~~

~~4. THE CONSEQUENCES OF NOT REACTIVATING THE CERTIFICATE BEFORE THE NONRENEWED STATUS EXPIRES.~~

~~(III) THE DEPARTMENT SHALL REACTIVATE THE CERTIFICATE OF A CERTIFIED COMMUNITY HEALTH WORKER WHO IS PLACED ON NONRENEWED STATUS IF THE CERTIFIED COMMUNITY HEALTH WORKER:~~

~~1. APPLIES TO THE DEPARTMENT FOR REACTIVATION OF THE CERTIFICATE BEFORE THE NONRENEWED STATUS EXPIRES;~~

~~2. COMPLIES WITH THE CERTIFICATE RENEWAL REQUIREMENTS THAT ARE IN EFFECT WHEN THE INDIVIDUAL APPLIES FOR REACTIVATION;~~

~~3. HAS COMPLETED THE NUMBER OF CREDIT HOURS OF APPROVED CONTINUING EDUCATION SET BY THE DEPARTMENT; AND~~

~~4. PAYS THE REACTIVATION PROCESSING FEE SET BY THE DEPARTMENT.~~

~~(3) NOTWITHSTANDING PARAGRAPH (1) OR (2) OF THIS SUBSECTION, THE DEPARTMENT SHALL REACTIVATE THE CERTIFICATE OF A CERTIFIED COMMUNITY HEALTH WORKER WHO WAS PLACED ON INACTIVE OR NONRENEWED STATUS IF THE CERTIFIED COMMUNITY HEALTH WORKER:~~

~~(I) APPLIES TO THE DEPARTMENT FOR REACTIVATION AFTER THE INACTIVE OR NONRENEWED STATUS HAS EXPIRED;~~

~~(II) PAYS THE REACTIVATION PROCESSING FEE SET BY THE DEPARTMENT AND ANY OTHER FEES REQUIRED BY THE DEPARTMENT; AND~~

~~(III) PROVIDES ANY DOCUMENTATION REQUIRED BY THE DEPARTMENT ON THE FORM THE DEPARTMENT REQUIRES.~~

13–3607.

(A) THERE IS A STATE COMMUNITY HEALTH WORKERS FUND.

(B) (1) THE DEPARTMENT MAY SET FEES AS ADVISED BY THE ADVISORY COMMITTEE.

(2) FUNDS TO COVER THE EXPENSES OF THE DEPARTMENT RELATING TO THE CERTIFICATION OF COMMUNITY HEALTH WORKERS SHALL BE GENERATED BY FEES SET UNDER THIS SUBTITLE.

(C) (1) THE DEPARTMENT SHALL REMIT ALL FEES COLLECTED UNDER THIS SUBTITLE TO THE COMPTROLLER.

(2) THE COMPTROLLER SHALL DISTRIBUTE THE FEES TO THE FUND.

(D) (1) THE FUND SHALL BE USED TO COVER THE ACTUAL DOCUMENTED DIRECT AND INDIRECT COSTS OF FULFILLING THE STATUTORY AND REGULATORY DUTIES OF THE DEPARTMENT AS PROVIDED UNDER THIS SUBTITLE.

(2) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT TO § 7–302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(3) ANY UNSPENT PORTION OF THE FUND MAY NOT BE TRANSFERRED OR REVERT TO THE GENERAL FUND BUT SHALL REMAIN IN THE FUND TO BE USED FOR THE PURPOSES SPECIFIED IN THIS SUBTITLE.

(4) NO OTHER STATE MONEY MAY BE USED TO SUPPORT THE FUND.

(E) (1) A DESIGNEE OF THE DEPARTMENT SHALL ADMINISTER THE FUND.

(2) MONEY IN THE FUND MAY BE EXPENDED ONLY FOR ANY LAWFUL PURPOSE AUTHORIZED UNDER THIS SUBTITLE.

13–3608.

A PERSON SHALL HAVE THE IMMUNITY FROM LIABILITY DESCRIBED IN § 5–702 OF THE COURTS ARTICLE FOR GIVING INFORMATION TO THE DEPARTMENT OR THE ADVISORY COMMITTEE OR OTHERWISE PARTICIPATING IN ACTIVITIES OF THE DEPARTMENT OR THE ADVISORY COMMITTEE RELATING TO COMMUNITY HEALTH WORKERS.

13–3609.

THIS SUBTITLE MAY BE CITED AS THE MARYLAND COMMUNITY HEALTH WORKERS ACT.

SECTION 2. AND BE IT FURTHER ENACTED, That the terms of the initial appointed members of the State Community Health Worker Advisory Committee shall expire as follows:

(1) three members in 2020;

(2) three members in 2021;

(3) four members in 2022; and

(4) four members in 2023.

SECTION 3. AND BE IT FURTHER ENACTED, That the State Community Health Worker Advisory Committee shall hold its first meeting within 30 days after the Governor has appointed the last of the initial appointed members of the Advisory Committee.

SECTION 4. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that the Governor provide funds in the fiscal year 2019 State budget at a level sufficient to allow the Maryland Department of Health to begin accrediting community health worker training programs and certifying community health workers, and that when special funds become available for the certification of community health workers, the special funds be used to reimburse the General Fund for the cost of starting up the Department's activities related to community health workers.

SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2018.

May 25, 2018

The Honorable Michael E. Busch
Speaker of the House
State House
Annapolis, Maryland 21401

Dear Speaker Busch:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed House Bill 548 – *Privately Owned Transportation Projects – Construction and Authorization to Use State–Owned Rights–of–Way and Property – Requirements*.

The provisions of House Bill 548 as passed by the General Assembly were drafted in the waning hours of sine die. There was no meaningful opportunity for public input or scrutiny of the language in this bill. As a threshold matter, should this legislation become law, it is likely to conflict with or be preempted by federal law and regulation.

Enactment of this legislation will cripple the State's ability to deliver projects that connect Marylanders to regional jobs and opportunities, including any future efforts to increase passenger rail capacity along the Northeast Corridor. For example, the provisions of House Bill 548 could very well have impeded improvements to the Baltimore & Potomac Tunnel had the legislation been enacted prior to the development of that project, which would have had a significant negative impact on commuter rail service and transit service overall.

Alarmingly, this hastily drafted, last–minute legislation may impact several other vital projects, including the Howard Street Tunnel, our transformative public–private partnership Traffic Relief Plan, and the proposed Loop project as presented by Mr. Elon Musk's Boring Company. This ill–conceived legislation would place statutory hurdles in the way of these projects, but not others, in a thinly veiled attempt to pick winners and losers among private sector industries.

The practical impact of this legislation would be to stifle progress on innovative transportation solutions that have not yet moved beyond the very earliest of concept and planning phases. Maryland is gaining a strong reputation as being open for business when it comes to global transportation solutions. By enacting this cynical and destructive effort to constrain these projects, the State would weaken its position as a transformative leader in this field while thwarting potential transit and freight options for Maryland's citizens.

I have made it a top priority for my Administration to deliver a high–quality statewide transportation network that serves all Marylanders. To that end, I have pledged to repair or replace all structurally deficient bridges, I have approved the largest P3 Transit project in the nation, I continue to look for innovative transit and highway solutions for the traveling public and have moved forward on long–delayed transportation projects in all parts of the State. The Maryland Department of Transportation under my Administration has more projects under construction than at any other time in Maryland's history.

We cannot afford, as a State alone and as an integral regional player, to suppress innovative solutions to our most challenging transportation problems. The Mid–Atlantic and Northeast Corridors are desperate to resolve the transportation issues of the future. By suppressing new solutions before they have the chance to prove their value, Maryland would be signaling to the regional, national and global community that we are unable and unwilling to be a partner in solving our greatest challenges.

For these reasons, I have vetoed House Bill 548.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

House Bill 548

AN ACT concerning

~~**Railroad Companies – Condemnation Authority – Application**~~
Privately Owned Transportation Projects – Construction and Authorization to Use State–Owned Rights–of–Way and Property – Requirements

FOR the purpose of ~~establishing that certain authority of railroad companies to acquire property by condemnation does not apply to an entity that owns or operates certain modes of transportation~~ providing that a certain project may not be constructed and the State may not authorize the use of or access to a State–owned right–of–way or State property for a certain project under certain circumstances; *providing for the construction of this Act;* defining a certain term; and generally relating to privately owned transportation projects.

~~BY repealing and reenacting, without amendments,~~
~~Article – Public Utilities~~
~~Section 5–405 through 5–408~~
~~Annotated Code of Maryland~~
~~(2010 Replacement Volume and 2017 Supplement)~~

~~BY repealing and reenacting, with amendments,~~
~~Article – Public Utilities~~
~~Section 5–409~~

~~Annotated Code of Maryland~~
~~(2010 Replacement Volume and 2017 Supplement)~~

~~BY adding to~~
~~Article – Public Utilities~~
~~Section 5–412~~
~~Annotated Code of Maryland~~
~~(2010 Replacement Volume and 2017 Supplement)~~

BY adding to
Article – Transportation
Section 9–101 to be under the new title "Title 9. Railroads"
Annotated Code of Maryland
(2015 Replacement Volume and 2017 Supplement)

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

~~Article – Public Utilities~~

~~5–405.~~

~~(a) A railroad company or its authorized agent may agree with the owner to purchase, use, occupy, or divert the owner's land, earth, gravel, stone, timber, streams, materials, or improvements that the company wants for the proper construction or repair of the railroad company's roads or works.~~

~~(b) The company may acquire the property by condemnation under Title 12 of the Real Property Article if:~~

~~(1) the company cannot agree with the owner of the property; or~~

~~(2) an owner:~~

~~(i) is a minor, is adjudged to be mentally incompetent, or is under any other legal disability to contract; or~~

~~(ii) is absent from the county in which the property is located when the company wants the property.~~

~~5–406.~~

~~(a) (1) A railroad company may change the location or grade of any portion of its road if the company finds the change is necessary for any reasonable cause, including to avoid:~~

~~(i) inconvenience to public travel;~~

~~(ii) dangerous or difficult curves or grades; or~~

~~(iii) unsafe or unsubstantial grounds or foundations.~~

~~(2) A change of location or grade under this section shall follow the general route of the existing road.~~

~~(3) A railroad company may enter on and take land and make surveys necessary to make the change in location or grade in accordance with Title 12 of the Real Property Article.~~

~~(b) (1) A railroad company is liable to the owner of the land on which the road was constructed for any damages caused by a change in location or grade of the road.~~

~~(2) The amount of damages determined shall be paid to the owner or deposited into court.~~

~~(3) An owner shall claim damages within:~~

~~(i) 30 days after actual notice of the intended change has been given to the owner, if the owner resides on the premises; or~~

~~(ii) 60 days after publication of notice in a newspaper in general circulation in the county, if the owner is a nonresident.~~

~~(c) If a railroad company condemns land under this section, the condemnation is binding on the company, unless the company chooses to abandon the location within 30 days after making the condemnation.~~

~~5–407.~~

~~(a) A railroad company and the municipal corporation, public officer, or public authority that owns or has control of any road, street, alley, or other public way or ground necessary to locate any part of the railroad may agree on the manner, terms, and conditions allowing the railroad company to use or occupy the road, street, alley, or other public way or ground.~~

~~(b) If the parties are unable to agree and the railroad company needs to use or occupy the road, street, alley, or other public way or ground, the railroad company may acquire the property by condemnation in accordance with Title 12 of the Real Property Article.~~

~~(c) (1) A railroad company that lays track on any public street, road, alley, or other public way or ground is responsible for any damage done by the location of the track to private property on or near the public way or ground.~~

~~(2) The owner of the private property shall bring a civil action for damages under this subsection within 2 years after the completion of the track.~~

~~(d) A railroad company may not pass through Baltimore City without the consent of the Mayor and City Council.~~

~~5–408.~~

~~The power of a railroad company to condemn land and other property under this subtitle includes the power to condemn, for railroad purposes, private crossings or ways and land and other property to provide substitute outlets.~~

~~5–409.~~

~~(A) [Sections] SUBJECT TO SUBSECTION (B) OF THIS SECTION, §§ 5–405, 5–406, and 5–407 of this subtitle apply to all railroads operated by electricity, cable, or other improved motive power, whether the property proposed to be condemned is located in a county or Baltimore City, where streets and alleys have not been opened and occupied as city streets.~~

~~(B) SECTIONS 5–405 THROUGH 5–408 OF THIS SUBTITLE DO NOT APPLY TO AN ENTITY THAT OWNS OR OPERATES:~~

~~(1) A RAILROAD POWERED BY A MAGNETIC LEVITATION PROPULSION SYSTEM; OR~~

~~(2) PASSENGER OR FREIGHT TRANSPORTATION FOR WHICH PRESSURIZED CAPSULES OR PODS TRAVEL AT HIGH SPEED IN REDUCED–PRESSURE TUBES ON A THIN LAYER OF PRESSURIZED AIR OR OTHER GAS.~~

Article – Transportation

TITLE 9. RAILROADS.

~~5–412.~~ ***9–101.***

(A) IN THIS SECTION, "PROJECT" MEANS A PRIVATELY OWNED TRANSPORTATION PROJECT IN THE STATE THAT INCLUDES THE CONSTRUCTION OF ONE OR MORE TUNNELS WITH A DIAMETER OF 6 FEET OR GREATER THAT WILL BE PRIMARILY USED BY A COMMON CARRIER.

(B) NOTWITHSTANDING ANY OTHER LAW, A PROJECT MAY NOT BE CONSTRUCTED AND THE STATE MAY NOT AUTHORIZE THE USE OF OR ACCESS TO A STATE–OWNED RIGHT–OF–WAY OR STATE PROPERTY FOR A PROJECT UNLESS:

(1) ~~(I) THE OWNER OF THE PROJECT HAS PREVIOUSLY OBTAINED A FRANCHISE FROM THE COMMISSION TO OPERATE AS A PUBLIC SERVICE COMPANY; OR~~

~~(II) THE PROJECT IS APPROVED BY THE COMMISSION; AND~~

~~(2)~~ ~~(I)~~ ~~1.~~ ~~AN A RAIL ALIGNMENT~~ *AN* ENVIRONMENTAL IMPACT STATEMENT IS PREPARED FOR THE PROJECT IN ACCORDANCE WITH THE NATIONAL ENVIRONMENTAL POLICY ACT; ~~AND~~ *OR*

~~2. THE RECORD OF DECISION ISSUED FOR THE RAIL ALIGNMENT ENVIRONMENTAL IMPACT STATEMENT PREPARED UNDER ITEM 1 OF THIS ITEM APPROVES THE RAIL ALIGNMENT FOR THE PROJECT; OR~~

~~(II) 1.~~ *(2)* ~~AN~~ *IF AN ENVIRONMENTAL IMPACT STATEMENT IS NOT REQUIRED BY AND PREPARED FOR THE PROJECT UNDER THE NATIONAL ENVIRONMENTAL POLICY ACT:*

***(I)* *AN* ENVIRONMENTAL EFFECTS REPORT IS PREPARED FOR THE PROJECT IN ACCORDANCE WITH § 1–304 OF THE NATURAL RESOURCES ARTICLE~~; AND~~**

~~2. THE ENVIRONMENTAL EFFECTS REPORT PREPARED UNDER ITEM 1 OF THIS ITEM APPROVES THE RAIL ALIGNMENT FOR THE PROJECT~~ ***THAT IS THE RESULT OF A REVIEW THAT IS SUBSTANTIALLY SIMILAR TO A REVIEW FOR WHICH AN ENVIRONMENTAL IMPACT STATEMENT IS PREPARED UNDER THE NATIONAL ENVIRONMENTAL POLICY ACT; AND***

(II) THE PROJECT IS APPROVED BY THE DEPARTMENT.

(C) NOTHING IN THIS SECTION MAY BE CONSTRUED TO PREEMPT OR CONFLICT WITH ANY FEDERAL LAW OR REGULATION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2018.

May 24, 2018

The Honorable Thomas V. Mike Miller, Jr.
President of the Senate
State House
Annapolis, MD 21401

The Honorable Michael E. Busch
Speaker of the House
State House
Annapolis, MD 21401

Dear Mr. President and Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed the following bills: Senate Bill 739 – *State Board of Education – Membership – Teachers and Parent*, House Bill 808 – *Collective Bargaining – Education – Supervisory Personnel*, and House Bill 643/Senate Bill 678 *State Department of Education – Employment Categories and Practices*.

Combined, these three bills are a crude attempt to accomplish two things; dilute the authority of the Board of Education by packing it with appointees that represent the interest of lobbyists rather than those of teachers, parents, administrators or students. Secondly, these bills also seek to prevent the Maryland State Department of Education – a body that is already insulated from political influence – from removing high–level employees who are ineffectual, incompetent, or who simply aren't getting the job done. It is shocking to me, as well as the citizens of Maryland, the lengths the General Assembly will go to to weaken accountability that will hurt the performance of our school children.

Furthermore, these pieces of flawed legislation join the unfortunate litany of attempts by the General Assembly over the past four sessions to pass legislation to enhance the power of partisan special interests, while eliminating transparency and usurping accountability. Perhaps most egregiously, last session the General Assembly passed the "Protect our [Failing] Schools Act," which has resulted in Maryland being the second least accountable system in the nation.

This session, when students, parents, teachers, and communities were once again demanding greater accountability and oversight of local education systems, the General Assembly passed retributive, tone–deaf legislation to take away fiscal oversight from the state's fiscal leaders. Instead, the General Assembly placed billions of taxpayer dollars into the hands of the Interagency Commission on School Construction, making us less and less accountable when a number of ethical lapses, criminal charges, grading irregularities, and procurement crises have occurred in multiple Maryland school systems.

Unfortunately, the General Assembly chose not to pass legislation to provide for an independent Investigator General, which would have also increased accountability in our schools by establishing an anonymous electronic tip program, protected whistleblowers, and allowed Maryland citizens to report any potential cases of wrongdoing, abuse, or unethical conduct.

Senate Bill 739 seems to mirror the botched attempt by the General Assembly in 2016 to pass legislation which would have changed the process Maryland uses to select the

superintendent of the state school system, a move that would have diluted the independence of the State Board of Education.

With this bill again the General Assembly has tried to take away authority from the State Board of Education. The current twelve–member body, is comprised of individuals who bring to their role a diverse range of personal, professional, and civic experiences in education. Members of the State Board are selected for their great diversity in the skills, experiences and areas of expertise, such as accountability, special education, school leadership, mental health, and gifted and talented education.

One of the most troubling aspects of Senate Bill 739 is the selection process by which members would be chosen. For teacher members, the Governor selects one member from a list of three elementary teachers and the other from a list of three secondary teachers produced by the Maryland State Education Association and Baltimore Teachers Union. The parent member would be selected from a list of three parents chosen by the Maryland Parent Teacher Association.

Several State Board members are themselves parents of students currently, or previously enrolled in Maryland Public schools. The membership also includes current and former educators and administrators in positions on local boards and in parent teacher associations. These and other experiences provide Maryland's State Board with a solid understanding of education policy and practice, including the practical implications of policy decisions as they affect children, parents, and teachers.

Senate Bill 739 would negatively impact the Board's composition by requiring an additional three seats be selected from just two of the many important stakeholder groups that exist statewide. Excluded groups would include, but not be limited to, school principals, guidance counselors, curriculum specialists, superintendents, librarians, and support personnel. The participation of individuals selected to represent a specific special interest union group, could have unintended negative consequences and could result in encouraging narrowly focused agendas that are in the interest of a few and not for the common good. A policy making board of the magnitude and importance of the Maryland State Board of Education should represent all stakeholder groups, but most of all who are singularly focused on the needs of Maryland school children and not just be a collection of special interest group representatives.

In an additional attempt to dilute the authority of the Maryland State Board of Education, the General Assembly passed Senate Bill 678 and House Bill 643. This legislation seeks to weaken the Department's capacity to achieve its – and the board's, the General Assembly's and the Governor's – educational goals at a time when strengthening the performance of Maryland's schools and students is more important than ever.

Senate Bill 678 and House Bill 643 would eliminate appointment positions within the Department and convert the status of approximately 900 at–will (special appointment) employees. A long standing practice in the State is not simply convert at–will employees to merit protected without a competitive recruitment. This legislation would have significant operational and fiscal impacts on the Department in terms of loss of flexibility to hire highly

qualified staff, increased administrative burdens, and the fiscal consequences of great expenses for staff and operations. Most troubling, this bill will hinder the Department's ability to compete in an already competitive job market and make it more difficult to acquire talented employees.

In a continued theme to strip accountability from our local school systems, the General Assembly passed House Bill 808. This legislation alters the definition of "supervisory employee" by removing "as determined by the public school employer in negotiation with the employee organization." Removing this language would remove the local authority to determine who is classified as supervisory, thus sending any disputes over classifications to the Public School Labor Relations Board.

There are several ramifications associated with the new structure set up in House Bill 808. Local school system organizational charts would be left to the discretion of the Public School Labor Relations Board. Preventing local school systems from making changes to staff and roles will impact students, as employees would be unable to be reclassified without a tedious legal challenge which could take a year or more.

Removing all authority to classify positions from the local board will prohibit the public school employer from ensuring an efficient operation best suited for the needs of their local school system. In order to operate efficiently, the local school system needs to be able to reclassify positions to the changing needs of the school system.

At a time when unethical behavior and mismanagement continue to hold our school systems back from serving school children, this sequence of bills that I am vetoing today, coupled with the other legislation I have spoken out against, seek to move Maryland in exactly the wrong direction. Instead, we need to be working together to restore accountability for our students, teachers, and families.

For these reasons, I have vetoed Senate Bill 739, Senate Bill 678/House Bill 643, and House Bill 808.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

House Bill 643

AN ACT concerning

State Department of Education – Employment Categories and Practices

FOR the purpose of altering the employment categories of certain employees of the State Department of Education; requiring that all positions in the Department be appointed positions in the professional service and skilled service as well as the executive service and management service, subject to a certain exception; repealing

the authority for certain special appointment positions in the Department; altering the procedures for the appointment, setting of qualifications, and transfer of employees of the Department; specifying that certain employees serve at the pleasure of the State Board of Education and the State Superintendent of Schools; specifying that certain removal procedures apply to certain other employees; altering the removal procedures for certain employees; requiring that the Department ~~assign certain employees to certain employment categories on or before a certain date~~ determine which employment classifications at the Department would be described as being in the skilled service or the professional service; requiring that, beginning on a certain date, all employees hired by the Department in certain classifications be hired, promoted, or transferred in accordance with certain requirements; and generally relating to the employment categories and practices of the State Department of Education.

BY repealing and reenacting, with amendments,
Article – Education
Section 2–104 and 2–105
Annotated Code of Maryland
(2014 Replacement Volume and 2017 Supplement)

BY repealing and reenacting, without amendments,
Article – State Personnel and Pensions
Section 6–405(a)(3)
Annotated Code of Maryland
(2015 Replacement Volume and 2017 Supplement)

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

Article – Education

2–104.

(a) The following **[**professional assistants**]** **EMPLOYEES** shall be appointed to **POSITIONS IN** the Department:

(1) No more than three Deputy State Superintendents of Schools;

(2) Any assistant State superintendents and directors authorized by the State Board and provided in the State budget; and

(3) Any other **[**professional assistants and agents**]** **EMPLOYEES TO FILL POSITIONS** authorized by the State Board and provided in the State budget.

(b) (1) **(I)** From the nominees proposed by the State Superintendent, the State Board shall appoint all **[**professional assistants to**]** **EMPLOYEES TO POSITIONS IN** the Department**[**, who**].**

(II) EXCEPT AS PROVIDED IN § 6–405(A)(3) OF THE STATE PERSONNEL AND PENSIONS ARTICLE, ALL POSITIONS shall be in the executive service, management service, **[**or special appointments**]** **PROFESSIONAL SERVICE, OR SKILLED SERVICE** in the State Personnel Management System.

(2) With the advice of the State Superintendent, the State Board shall set the qualifications for each **[**professional**]** position **IN THE DEPARTMENT**.

(3) The State Superintendent may transfer **[**professional assistants**]** **EMPLOYEES** within the Department as necessary.

(c) (1) All **[**professional assistants**]** **EMPLOYEES WHO ARE ASSIGNED TO THE EXECUTIVE SERVICE OR MANAGEMENT SERVICE OR WHO ARE SPECIAL APPOINTEES** shall serve at the pleasure of the State Board and the State Superintendent.

(2) All **[**other professional assistants**]** **EMPLOYEES IN THE PROFESSIONAL OR SKILLED SERVICE** shall be removed in accordance with procedures **[**set by the State Board**]** **SET FORTH IN § 2–105 OF THIS SUBTITLE AND TITLE 11 OF THE STATE PERSONNEL AND PENSIONS ARTICLE**.

(d) (1) In addition to the other duties specified in this section, each **[**professional assistant to**]** **EMPLOYEE IN** the Department has the duties assigned to him by the State Superintendent.

(2) The Deputy State Superintendent designated by the State Superintendent or by the State Board is the acting State Superintendent when the State Superintendent is absent or disabled.

(3) Assistant State superintendents and directors have charge of the various divisions of the Department.

2–105.

[(a) Unless otherwise provided by law, the State Superintendent shall appoint and remove all clerical assistants and other nonprofessional personnel of the Department in accordance with the provisions of the State Personnel and Pensions Article that govern the skilled service, with the exception of special appointments.

(b)**]** The credential secretary and statistician of the Department are special appointments in the State Personnel Management System.

Article – State Personnel and Pensions

6–405.

(a) Except as otherwise provided by law, individuals in the following positions in the skilled service and professional service are considered special appointments:

(3) as determined by the Secretary, a position which performs a significant policy role or provides direct support to a member of the executive service;

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before ~~January 1, 2019~~ July 1, 2018, the State Department of Education shall ~~assign all personnel who presently are designated by the Department as professional or nonprofessional assistants to the appropriate employment category under Title 6, Subtitle 4 of the State Personnel and Pensions Article~~ determine which employment classifications at the Department would ordinarily be described as being in the skilled service or the professional service. Beginning on July 1, 2018, all employees hired by the Department in classifications that the Department determines would ordinarily be described as skilled or professional shall be hired, promoted, or transferred in accordance with the requirements for skilled or professional employees under Title 6, Subtitle 4 of the State Personnel and Pensions Article.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ July 1, 2018.

House Bill 808

AN ACT concerning

Education – Collective Bargaining for Noncertificated Employees – Supervisory Employees *and Management Personnel*

FOR the purpose of altering the ~~definition~~ *definitions* of "supervisory employee" *and "management personnel"* by removing a provision that status as a supervisory employee *and management personnel* may be determined by certain negotiations between a certain public school employer and a certain employee organization; and generally relating to collective bargaining for noncertificated employees.

BY repealing and reenacting, with amendments,
Article – Education
Section ~~6–501(i)~~ *6–501(e) and (i)*
Annotated Code of Maryland
(2014 Replacement Volume and 2017 Supplement)

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

Article – Education

6–501.

(e) "Management personnel" includes an individual who is engaged mainly in executive and managerial functions[, as determined by the public school employer in negotiation with an employee organization that requests negotiation on this issue].

(i) "Supervisory employee" includes any individual who responsibly directs the work of other employees[, as determined by the public school employer in negotiation with an employee organization that requests negotiation on this issue].

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2018.

May 25, 2018

The Honorable Michael E. Busch
Speaker of the House
H–101 State House
Annapolis, MD 21401

Dear Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed House Bill 888 – *Criminal Law – Firearm Crimes – Rapid Fire Trigger Activator*.

This bill prohibits a person from transporting a "rapid fire trigger activator" into the State or manufacturing, possessing, selling, offering to sell, transferring, purchasing, or receiving a rapid fire trigger activator. In addition, the bill prohibits a person from using a rapid fire trigger activator in the commission of a felony or a crime of violence. The bill allows a person to continue to possess a rapid fire trigger activator until October 1, 2019 if, among other things, the person applies for authorization from the federal Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF).

Senate Bill 707, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 888.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

House Bill 888

AN ACT concerning

Criminal Law – Firearm Crimes – Rapid Fire Trigger Activator

FOR the purpose of prohibiting a person from transporting a certain rapid fire trigger activator into the State or manufacturing, possessing, selling, offering to sell, transferring, purchasing, or receiving a certain rapid fire trigger activator, subject to a certain exception; applying certain penalties; establishing a certain penalty for using a rapid fire trigger activator in the commission of a certain crime; defining certain terms; providing for a delayed effective date for certain provisions of this Act; and generally relating to firearm crimes.

BY repealing and reenacting, with amendments,
Article – Criminal Law
Section 4–301 and 4–306
Annotated Code of Maryland
(2012 Replacement Volume and 2017 Supplement)

BY adding to
Article – Criminal Law
Section 4–305.1
Annotated Code of Maryland
(2012 Replacement Volume and 2017 Supplement)

BY repealing and reenacting, with amendments,
Article – Criminal Law
Section 4–305.1
Annotated Code of Maryland
(2012 Replacement Volume and 2017 Supplement)
(As enacted by Section 1 of this Act)

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

Article – Criminal Law

4–301.

(a) In this subtitle the following words have the meanings indicated.

(b) "Assault long gun" means any assault weapon listed under § 5–101(r)(2) of the Public Safety Article.

(c) "Assault pistol" means any of the following firearms or a copy regardless of the producer or manufacturer:

(1) AA Arms AP–9 semiautomatic pistol;

(2) Bushmaster semiautomatic pistol;

(3) Claridge HI–TEC semiautomatic pistol;

(4) D Max Industries semiautomatic pistol;

(5) Encom MK–IV, MP–9, or MP–45 semiautomatic pistol;

(6) Heckler and Koch semiautomatic SP–89 pistol;

(7) Holmes MP–83 semiautomatic pistol;

(8) Ingram MAC 10/11 semiautomatic pistol and variations including the Partisan Avenger and the SWD Cobray;

(9) Intratec TEC–9/DC–9 semiautomatic pistol in any centerfire variation;

(10) P.A.W.S. type semiautomatic pistol;

(11) Skorpion semiautomatic pistol;

(12) Spectre double action semiautomatic pistol (Sile, F.I.E., Mitchell);

(13) UZI semiautomatic pistol;

(14) Weaver Arms semiautomatic Nighthawk pistol; or

(15) Wilkinson semiautomatic "Linda" pistol.

(d) "Assault weapon" means:

(1) an assault long gun;

(2) an assault pistol; or

(3) a copycat weapon.

(E) "BINARY TRIGGER SYSTEM" MEANS A DEVICE THAT, WHEN INSTALLED IN OR ATTACHED TO A FIREARM, FIRES BOTH WHEN THE TRIGGER IS PULLED AND ON RELEASE OF THE TRIGGER.

(F) "BUMP STOCK" MEANS A DEVICE THAT, WHEN INSTALLED IN OR ATTACHED TO A FIREARM, INCREASES THE RATE OF FIRE OF THE FIREARM BY USING ENERGY FROM THE RECOIL OF THE FIREARM TO GENERATE A RECIPROCATING ACTION THAT FACILITATES REPEATED ACTIVATION OF THE TRIGGER.

(G) "BURST TRIGGER SYSTEM" MEANS A DEVICE THAT, WHEN INSTALLED IN OR ATTACHED TO A FIREARM, ALLOWS THE FIREARM TO DISCHARGE TWO OR MORE SHOTS WITH A SINGLE PULL OF THE TRIGGER BY ALTERING THE TRIGGER RESET.

~~(e)~~ **(H)** (1) "Copycat weapon" means:

(i) a semiautomatic centerfire rifle that can accept a detachable magazine and has any two of the following:

1. a folding stock;

2. a grenade launcher or flare launcher; or

3. a flash suppressor;

(ii) a semiautomatic centerfire rifle that has a fixed magazine with the capacity to accept more than 10 rounds;

(iii) a semiautomatic centerfire rifle that has an overall length of less than 29 inches;

(iv) a semiautomatic pistol with a fixed magazine that can accept more than 10 rounds;

(v) a semiautomatic shotgun that has a folding stock; or

(vi) a shotgun with a revolving cylinder.

(2) "Copycat weapon" does not include an assault long gun or an assault pistol.

~~(f)~~ **(I)** "Detachable magazine" means an ammunition feeding device that can be removed readily from a firearm without requiring disassembly of the firearm action or without the use of a tool, including a bullet or cartridge.

~~(g)~~ **(J)** "Flash suppressor" means a device that functions, or is intended to function, to perceptibly reduce or redirect muzzle flash from the shooter's field of vision.

(K) "HELLFIRE TRIGGER" MEANS A DEVICE THAT, WHEN INSTALLED IN OR ATTACHED TO A FIREARM, DISENGAGES THE TRIGGER RETURN SPRING WHEN THE TRIGGER IS PULLED.

~~(h)~~ **(L)** "Licensed firearms dealer" means a person who holds a dealer's license under Title 5, Subtitle 1 of the Public Safety Article.

~~**(I) "MACHINE GUN" HAS THE MEANING STATED IN § 4–401 OF THIS TITLE.**~~

~~(J)~~ **(M) (1) "RAPID FIRE TRIGGER ACTIVATOR" MEANS** ~~**ANY DEVICE, PART, OR COMBINATION OF DEVICES OR PARTS THAT IS DESIGNED AND FUNCTIONS TO ACCELERATE THE RATE OF FIRE OF A FIREARM BEYOND THE STANDARD RATE OF FIRE FOR FIREARMS THAT ARE NOT EQUIPPED WITH THAT DEVICE, PART, OR COMBINATION OF DEVICES OR PARTS**~~ **ANY DEVICE, INCLUDING A REMOVABLE MANUAL OR POWER–DRIVEN ACTIVATING DEVICE, CONSTRUCTED SO THAT, WHEN INSTALLED IN OR ATTACHED TO A FIREARM:**

(I) THE RATE AT WHICH THE TRIGGER IS ACTIVATED INCREASES; OR

(II) THE RATE OF FIRE INCREASES.

(2) "RAPID FIRE TRIGGER ACTIVATOR" INCLUDES A BUMP STOCK ~~**AND TRIGGER CRANK**~~**, TRIGGER CRANK, HELLFIRE TRIGGER, BINARY TRIGGER SYSTEM, BURST TRIGGER SYSTEM, OR A COPY OR A SIMILAR DEVICE, REGARDLESS OF THE PRODUCER OR MANUFACTURER.**

(3) "RAPID FIRE TRIGGER ACTIVATOR" DOES NOT INCLUDE A SEMIAUTOMATIC REPLACEMENT TRIGGER THAT IMPROVES THE PERFORMANCE AND FUNCTIONALITY OVER THE STOCK TRIGGER.

(N) "TRIGGER CRANK" MEANS A DEVICE THAT, WHEN INSTALLED IN OR ATTACHED TO A FIREARM, REPEATEDLY ACTIVATES THE TRIGGER OF THE FIREARM THROUGH THE USE OF A CRANK, A LEVER, OR ANY OTHER PART THAT IS TURNED IN A CIRCULAR MOTION.

4–305.1.

~~**A**~~ **(A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A PERSON MAY NOT:**

(1) TRANSPORT A RAPID FIRE TRIGGER ACTIVATOR INTO THE STATE; OR

(2) MANUFACTURE, POSSESS, SELL, OFFER TO SELL, TRANSFER, PURCHASE, OR RECEIVE A RAPID FIRE TRIGGER ACTIVATOR.

(B) THIS SECTION DOES NOT APPLY TO THE POSSESSION OF A RAPID FIRE TRIGGER ACTIVATOR BY A PERSON WHO:

(1) POSSESSED THE RAPID FIRE TRIGGER ACTIVATOR BEFORE OCTOBER 1, 2018;

(2) APPLIED TO THE FEDERAL BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES BEFORE OCTOBER 1, 2018, FOR AUTHORIZATION TO POSSESS A RAPID FIRE TRIGGER ACTIVATOR; AND

(3) IS IN COMPLIANCE WITH ALL FEDERAL REQUIREMENTS FOR POSSESSION OF A RAPID FIRE TRIGGER ACTIVATOR.

4–306.

(a) Except as otherwise provided in this subtitle, a person who violates this subtitle is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 3 years or a fine not exceeding $5,000 or both.

(b) (1) A person who uses an assault weapon, **A RAPID FIRE TRIGGER ACTIVATOR,** or a magazine that has a capacity of more than 10 rounds of ammunition, in the commission of a felony or a crime of violence as defined in § 5–101 of the Public Safety Article is guilty of a misdemeanor and on conviction, in addition to any other sentence imposed for the felony or crime of violence, shall be sentenced under this subsection.

(2) (i) For a first violation, the person shall be sentenced to imprisonment for not less than 5 years and not exceeding 20 years.

(ii) The court may not impose less than the minimum sentence of 5 years.

(iii) The mandatory minimum sentence of 5 years may not be suspended.

(iv) Except as otherwise provided in § 4–305 of the Correctional Services Article, the person is not eligible for parole in less than 5 years.

(3) (i) For each subsequent violation, the person shall be sentenced to imprisonment for not less than 10 years and not exceeding 20 years.

(ii) The court may not impose less than the minimum sentence of 10 years.

(iii) A sentence imposed under this paragraph shall be consecutive to and not concurrent with any other sentence imposed for the felony or crime of violence.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Criminal Law

4–305.1.

(a) Except as provided in subsection (b) of this section, a person may not:

(1) transport a rapid fire trigger activator into the State; or

(2) manufacture, possess, sell, offer to sell, transfer, purchase, or receive a rapid fire trigger activator.

(b) This section does not apply to the possession of a rapid fire trigger activator by a person who:

(1) possessed the rapid fire trigger activator before October 1, 2018;

(2) applied to the federal Bureau of Alcohol, Tobacco, Firearms and Explosives before October 1, 2018, for authorization to possess a rapid fire trigger activator; **[**and**]**

(3) **RECEIVED AUTHORIZATION TO POSSESS A RAPID FIRE TRIGGER ACTIVATOR FROM THE FEDERAL BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES BEFORE OCTOBER 1, 2019; AND**

(4) is in compliance with all federal requirements for possession of a rapid fire trigger activator.

SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect October 1, 2019.

SECTION ~~2.~~ 4. AND BE IT FURTHER ENACTED, That, except as provided in Section 3 of this Act, this Act shall take effect October 1, 2018.

May 25, 2018

The Honorable Thomas V. Mike Miller
President of the Senate
State House
Annapolis, MD 21401

The Honorable Michael E. Busch
Speaker of the House
State House
Annapolis, MD 21401

Dear Mr. President and Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed Senate Bill 838/House Bill 891 – *Criminal Procedure – Coram Nobis – Time for Filing.*

The opportunity for someone to make amends and rebuild after committing a crime is an important part of any just and restorative criminal justice system. Over the past several years, working together with the General Assembly, we have been able to shield certain low–level criminal offenses, create a process for certificates of rehabilitation to improve employment prospects of ex–offenders, and dramatically expand expungement opportunities for misdemeanor offenses. Additionally, just last month, I signed unprecedented legislation to expand the ability to expunge a criminal record to certain nonviolent felonies.

Senate Bill 838/House Bill 891, however, provides an avenue for repeat violent offenders to eschew consequences of their previous and potentially violent crimes. I would more favorably consider legislation that seeks to expand *coram nobis* in a way that improves post–conviction relief for individuals with low–level or nonviolent offenses but prevents repeat, violent offenders from taking advantage of the loophole this legislation could create. Had the General Assembly adopted language along the lines of the amendment proposed in the Senate and limited the additional time to file a writ to a misdemeanor or less serious convictions, the legislation would have struck a better balance (Senator Cassilly, 623022/1).

A writ of error *coram nobis* is a legal proceeding in which an individual who has completed their incarceration, probation and/or parole can file for relief if there was a fundamental error with the conviction and they now face significant collateral consequences as a result of the conviction. *Coram nobis* serves the laudable purpose of ensuring that a defendant can challenge a conviction for alleged defects of which the defendant was unaware.

Current law correctly holds that once a defendant becomes aware of the defect, the time for the defendant to challenge a conviction begins to run. If the defendant waits too long to bring the writ, a court can bar the action. This strikes the proper balance of ensuring convictions are properly obtained while providing an element of certainty to victims that there will be finality and closure.

Senate Bill 838/House Bill 891 disrupts this balance. The legislation allows a defendant who knows of an error to do nothing until faced with a collateral consequence, unnecessarily delaying a challenge in a manner that can only benefit the defendant. By allowing an offender to file a writ of error *coram nobis* for up to three years after he knew or should have known he faced a collateral consequence as opposed to when he knew of the facts underlying the alleged error, Senate Bill 838/House Bill 891 allows an offender to file a writ

of error *coram nobis* decades after the original conviction. As a result of this lengthy delay, witnesses or evidence may have been lost or no longer available, which will mean in some cases that a retrial is difficult, if not impossible, and a guilty defendant's conviction will be overturned.

One consequence is that repeat, violent offenders may be able to avoid enhanced penalties for a subsequent crime by using the writ of error *coram nobis* to overturn an earlier violent conviction. In a request to veto the legislation, the Baltimore County State's Attorney on behalf of the Maryland State's Attorney's Association, cites an instance of a violent defendant attempting to use *coram nobis* to undo a conviction that forms the basis of his life without parole sentence. Equally troubling, victims may no longer be accessible, making it impossible for them to be notified of the proceedings. As the Maryland Crime Victims' Resource Center states in their veto request, "The current justice system already significantly traumatizes victims. To avoid adding insult to injury to victims by further and unnecessarily re–harming victims, your veto eliminates additional trauma that would result if the bill became law."

Senate Bill 838/House Bill 891 would skew the process to favor offenders who may be seeking *coram nobis* relief because they face additional consequences due to their status as a repeat, and sometimes violent, offender. For that reason, I have vetoed Senate Bill 838 and House Bill 891.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

House Bill 891

AN ACT concerning

Criminal Procedure – Coram Nobis – Time for Filing

FOR the purpose of providing that a petition for writ of error coram nobis may not be filed more than a certain amount of time after the petitioner knew or should have known about a certain consequence, with a certain exception; and generally relating to coram nobis.

BY repealing and reenacting, with amendments,
Article – Criminal Procedure
Section 8–401
Annotated Code of Maryland
(2008 Replacement Volume and 2017 Supplement)

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

Article – Criminal Procedure

8–401.

(A) The failure to seek an appeal in a criminal case may not be construed as a waiver of the right to file a petition for writ of error coram nobis.

(B) UNLESS GOOD CAUSE IS SHOWN, A PETITION FOR WRIT OF ERROR CORAM NOBIS MAY NOT BE FILED MORE THAN 3 YEARS AFTER THE PETITIONER KNEW OR SHOULD HAVE KNOWN THAT THE PETITIONER FACES A SIGNIFICANT COLLATERAL CONSEQUENCE FROM THE CONVICTION THAT IS THE BASIS FOR THE PETITION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2018.

May 25, 2018

The Honorable Michael E. Busch
Speaker of the House
H–101 State House
Annapolis, MD 21401

Dear Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed House Bill 1019 – *Alternate Contributory Pension Selection – Former Members – Member Contributions*.

This bill allows specified members of the Employees' Pension System (EPS) and Teachers' Pension System (TPS) to continue to receive interest on member contributions under specified circumstances.

Senate Bill 699, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 1019.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

House Bill 1019

AN ACT concerning

Alternate Contributory Pension Selection – Former Members – Member Contributions

FOR the purpose of requiring that certain members of the Employees' Pension System or the Teachers' Pension System who are subject to the Reformed Contributory Pension Benefit earn a certain rate of interest on certain former member contributions in the Alternate Contributory Pension Selection of the Employees' Pension System or the Teachers' Pension System under certain circumstances; defining a certain term; providing for the application of this Act; and generally relating to interest earned on former member contributions in the Alternate Contributory Pension Selection of the Employees' Pension System or the Teachers' Pension System.

BY repealing and reenacting, with amendments,
Article – State Personnel and Pensions
Section 23–213
Annotated Code of Maryland
(2015 Replacement Volume and 2017 Supplement)

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

Article – State Personnel and Pensions

23–213.

(a) Except as provided in subsection (b) of this section, regular interest is payable on member contributions at the rate of 5% per year compounded annually until retirement or withdrawal of contributions and interest.

(b) **[**No**]** **EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, NO** further interest shall be paid on member contributions after membership ends if the former member is not eligible to receive a vested allowance under Title 29, Subtitle 3 of this article.

(C) (1) IN THIS SUBSECTION, "ACTIVE MEMBER" MEANS A MEMBER WHO IS NOT SEPARATED FROM EMPLOYMENT WITH THE STATE OR A PARTICIPATING EMPLOYER OF THE EMPLOYEES' PENSION SYSTEM OR THE TEACHERS' PENSION SYSTEM.

(2) THIS SUBSECTION APPLIES ONLY TO AN INDIVIDUAL WHO:

(I) IS A FORMER MEMBER OF THE ALTERNATE CONTRIBUTORY PENSION SELECTION;

(II) IS NOT ELIGIBLE TO RECEIVE A VESTED ALLOWANCE FROM THE ALTERNATE CONTRIBUTORY PENSION SELECTION UNDER TITLE 29, SUBTITLE 3 OF THIS ARTICLE;

(III) HAS NOT WITHDRAWN THE INDIVIDUAL'S MEMBER CONTRIBUTIONS FROM THE ALTERNATE CONTRIBUTORY PENSION SELECTION; AND

(IV) IS AN ACTIVE MEMBER SUBJECT TO THE REFORMED CONTRIBUTORY PENSION BENEFIT.

(3) AN INDIVIDUAL DESCRIBED IN PARAGRAPH (2) OF THIS SUBSECTION SHALL RECEIVE REGULAR INTEREST AT THE RATE DESCRIBED UNDER SUBSECTION (A) OF THIS SECTION ON THE INDIVIDUAL'S MEMBER CONTRIBUTIONS IN THE ALTERNATE CONTRIBUTORY PENSION SELECTION WHILE THE INDIVIDUAL IS AN ACTIVE MEMBER SUBJECT TO THE REFORMED CONTRIBUTORY PENSION BENEFIT.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply retroactively and shall be applied to and interpreted to provide payment of interest on an individual's contributions as a former member in the Alternate Contributory Pension Selection beginning on the date the individual became a member subject to the Reformed Contributory Pension Benefit if the individual is an active member on the effective date of this Act.

SECTION ~~2.~~ *3.* AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2018.

May 25, 2018

The Honorable Michael E. Busch
Speaker of the House
H–101 State House
Annapolis, MD 21401

Dear Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed House Bill 1073 – *Landlord and Tenant – Residential Leases – Water and Sewer Bills*.

This bill requires a landlord of a building that contains one or two residential dwelling units, who requires a tenant to make payments for water or sewer utility services to the landlord, to use a written lease that provides notice that the tenant is responsible for making payments for water or sewer utility services to the landlord; and, provide a copy of the water or sewer bill to the tenant.

Senate Bill 468, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 1073.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

House Bill 1073

AN ACT concerning

Landlord and Tenant – Residential Leases – Water and Sewer Bills

FOR the purpose of requiring a certain landlord to use a written lease that includes a certain notice *and to provide a copy of a certain water or sewer bill to a tenant under certain circumstances* ~~and to provide a copy of a certain water or sewer bill to a tenant under certain circumstances~~; ~~requiring a utility service provider to establish certain regulations or procedures;~~ defining a certain term; providing for the application of this Act; and generally relating to residential leases.

BY adding to
Article – Real Property
Section 8–205.1
Annotated Code of Maryland
(2015 Replacement Volume and 2017 Supplement)

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

Article – Real Property

8–205.1.

(A) IN THIS SECTION, "UTILITY SERVICE PROVIDER" MEANS A PUBLIC SERVICE COMPANY OR A UNIT OF STATE OR LOCAL GOVERNMENT THAT PROVIDES WATER OR SEWER UTILITY SERVICES.

(B) (1) THIS SECTION APPLIES ONLY TO A LANDLORD OF A BUILDING THAT CONTAINS ONE OR TWO RESIDENTIAL DWELLING UNITS.

(2) THIS SECTION DOES NOT APPLY TO A LANDLORD THAT REQUIRES A TENANT, UNDER AN ORAL OR WRITTEN LEASE, TO PAY WATER OR SEWER BILLS DIRECTLY TO THE UTILITY SERVICE PROVIDER.

(C) A LANDLORD THAT REQUIRES A TENANT TO MAKE PAYMENTS FOR WATER OR SEWER UTILITY SERVICES TO THE LANDLORD SHALL: ~~:~~

~~(1)~~ **USE** ~~USE~~ ***(1)*** ***USE*** **A WRITTEN LEASE THAT PROVIDES NOTICE THAT THE TENANT IS RESPONSIBLE FOR MAKING PAYMENTS FOR WATER OR SEWER UTILITY SERVICES TO THE LANDLORD*** ***; AND***

(2) PROVIDE A COPY OF THE WATER OR SEWER BILL TO THE TENANT ~~; AND~~

~~(2) ON THE REQUEST OF THE TENANT, PROVIDE A COPY OF THE WATER OR SEWER BILL TO THE TENANT~~**.**

~~(D) A UTILITY SERVICE PROVIDER SHALL ESTABLISH REGULATIONS OR PROCEDURES FOR WATER OR SEWER UTILITY SERVICES THAT:~~

~~(1) ENABLE A TENANT TO ESTABLISH AN ACCOUNT DIRECTLY WITH THE UTILITY SERVICE PROVIDER, WITH A COURTESY COPY OF A WATER OR SEWER BILL TO BE PROVIDED TO THE LANDLORD BY THE UTILITY SERVICE PROVIDER; OR~~

~~(2) AUTHORIZE A TENANT TO RECEIVE DIRECTLY A COURTESY COPY OF A WATER OR SEWER BILL FROM THE UTILITY SERVICE PROVIDER IF A LANDLORD IS THE ACCOUNT HOLDER.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2018.

May 25, 2018

The Honorable Thomas V. Mike Miller
President of the Senate
State House
Annapolis, Maryland 21401

The Honorable Michael E. Busch
Speaker of the House
State House
Annapolis, Maryland 21401

Dear President Miller and Speaker Busch:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed Senate Bill 572 and House Bill 1243 – *Prevailing Wage Rates – Public Work Contracts – Suits by Employees*.

Since taking office, our administration has been committed to ensuring Maryland is open for business and growing the state's economy. We have made significant progress and continue to undo years of overregulation, tax increases, and an anti–business attitude that have had a devastating impact on Maryland's economy and limited our ability to compete regionally and nationally. Maryland's workers and small businesses deserve a consistent and predictable business climate.

Unfortunately, this legislation is an inconsistent reversal of an action passed by the Maryland General Assembly action from just a few years ago. In 2010, the legislature passed House Bill 1100 and Senate Bill 451 *Prevailing Wage Rates – Public Works Contracts – Suits by Employees* – that explicitly reversed a workers' ability to sue for recovery of unpaid wages under the State's prevailing wage law without first filing a complaint with the Commissioner of Labor and Industry. Only after an employer failed to comply could a worker file a civil suit. This will ultimately limit a workers' ability to fully recover wages and hamper our administration's efforts to recover one hundred percent of what workers are owed. Given my Administration's strong record of wage recovery, I can only assume that the General Assembly was not fully informed when it passed this law.

Senate Bill 572 and House Bill 1243 allow a worker paid less than the prevailing wage on a public works project to circumvent the Commissioner of Labor and Industry and sue to recover the difference in wages. The bill also includes a provision holding the general or prime contractor and subcontractor jointly and severally liable for any violation on the part of the subcontractor. This legislation is attempting to solve a problem that does not exist. Nothing in this bill will result in workers receiving their full wages more quickly, but will most likely result in excessive civil proceedings for contractors relating to allegations of improper payment made by a subcontractor's employee without any requirement to file a claim with the Commissioner.

The Department of Labor, Licensing, and Regulation successfully enforces the Prevailing Wage law with a record of swift action and full recovery of wages for workers. Under current law, an employee is allowed to bring a private court action to recover lost wages, but requires the Commissioner to investigate and attempt to resolve the claim first. The current Prevailing Wage system has successfully resolved every case since 2012 without the need to go to court. The system is zero cost to workers and they are awarded the full amount of what they are owed – no fees are withheld by the Prevailing Wage unit for handling the

claims. Complaints are resolved quickly and there are no backlogs or waiting lists to process claims.

This legislation will negatively impact the Department's ability to investigate wage payments and harm the interests of workers on Prevailing Wage jobs. Ultimately, having employers subject to both Department of Labor, Licensing, and Regulation investigations and civil proceedings over the same issue is unnecessary and burdensome.

For these reasons, I have vetoed Senate Bill 572 and House Bill 1243.

Sincerely,

Lawrence J. Hogan, Jr
Governor

House Bill 1243

AN ACT concerning

Prevailing Wage Rates – Public Work Contracts – Suits by Employees

FOR the purpose of authorizing certain employees to sue to recover the difference between certain prevailing wage rates and certain amounts under certain circumstances; providing that a certain determination by the Commissioner of Labor and Industry does not preclude certain employees from filing a certain action; ~~requiring a court to order the payment of certain damages under certain circumstances;~~ providing for the liability of certain contractors and subcontractors under certain circumstances; and generally relating to private rights of action under the State prevailing wage law.

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 17–224
Annotated Code of Maryland
(2015 Replacement Volume and 2017 Supplement)

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

Article – State Finance and Procurement

17–224.

(a) (1) If an employee under a public work contract is paid less than the prevailing wage rate for that employee's classification for the work performed, the employee may file a complaint with the Commissioner.

(2) Except as otherwise provided in this section, a complaint filed under this section shall be subject to the provisions of § 17–221 of this subtitle.

(3) If the Commissioner's investigation determines that the employer violated provisions of this subtitle, the Commissioner shall try to resolve the issue informally.

(4) (i) If the Commissioner is unable to resolve the matter informally, the Commissioner shall issue an order for a hearing in accordance with § 17–221 of this subtitle.

(ii) If, at the conclusion of a hearing ordered under subparagraph (i) of this paragraph, the Commissioner determines that the employee is entitled to restitution under this subtitle, the Commissioner shall issue an order in accordance with § 17–221 of this subtitle.

(iii) If an employer of an employee found to be entitled to restitution under subparagraph (ii) of this paragraph is no longer working under a contract with a public body, the Commissioner may order that restitution be paid directly by the employer to the employee within a reasonable period of time, as determined by the Commissioner.

(5) If an employer fails to comply with an order to pay restitution to an employee under paragraph (4)(iii) of this subsection, the Commissioner or the employee may bring a civil action to enforce the order in the circuit court in the county where the employee or employer is located.

(B) (1) IF AN EMPLOYEE UNDER A PUBLIC WORK CONTRACT IS PAID LESS THAN THE PREVAILING WAGE RATE FOR THAT EMPLOYEE'S CLASSIFICATION FOR THE WORK PERFORMED, THE EMPLOYEE IS ENTITLED TO SUE TO RECOVER THE DIFFERENCE BETWEEN THE PREVAILING WAGE RATE AND THE AMOUNT RECEIVED BY THE EMPLOYEE.

(2) A DETERMINATION BY THE COMMISSIONER THAT A CONTRACTOR IS REQUIRED TO MAKE RESTITUTION UNDER SUBSECTION (A)(4) OF THIS SECTION DOES NOT PRECLUDE AN EMPLOYEE FROM FILING AN ACTION UNDER THIS SUBSECTION.

[(b)**] (C)** (1) An action under this section is considered to be a suit for wages.

(2) A judgment in an action under this section shall have the same force and effect as any other judgment for wages.

(3) An action brought under this section for a violation of this subtitle shall be filed within 3 years from the date the affected employee knew or should have known of the violation.

[(c)**] (D)** (1) The failure of an employee to protest orally or in writing the payment of a wage that is less than the prevailing wage rate is not a bar to recovery in an action under this section.

(2) A contract or other written document in which an employee states that the employee shall be paid less than the amount required by this subtitle does not bar the recovery of any remedy required under this subtitle.

[(d)**] (E)** (1) Except as provided in paragraph (3) of this subsection, if the court in an action filed under this section finds that an employer paid an employee less than the requisite prevailing wage, the court shall award the affected employee the difference between the wage actually paid and the prevailing wage at the time that the services were rendered.

(2) (i) Subject to subparagraph (ii) of this paragraph, unpaid fringe benefit contributions owed for an employee in accordance with this section shall be paid to the appropriate benefit fund, plan, or program.

(ii) In the absence of an appropriate benefit fund, plan, or program, the amount owed for fringe benefits for an employee shall be paid directly to the employee.

(3) The court **[**may**]** ~~SHALL~~ order the payment of **[**double damages or**]** treble damages under this section if the court finds that the employer withheld wages or fringe benefits willfully and knowingly or with deliberate ignorance or reckless disregard of the employer's obligations under this subtitle.

(4) In an action under this section, the court shall award a prevailing plaintiff reasonable counsel fees and costs.

(5) If the court finds that an employee submitted a false or fraudulent claim in an action under this section, the court may order the employee to pay the employer reasonable counsel fees and costs.

(6) THE CONTRACTOR AND SUBCONTRACTOR SHALL BE JOINTLY AND SEVERALLY LIABLE FOR ANY VIOLATION OF THE SUBCONTRACTOR'S OBLIGATIONS UNDER THIS SECTION.

[(e)**] (F)** (1) Subject to paragraph (2) of this subsection, an action filed in accordance with this section may be brought by one or more employees on behalf of that employee or group of employees and on behalf of other employees similarly situated.

(2) An employee may not be a party plaintiff to an action brought under this section unless that employee files written consent with the court in which the action is brought to become a party to the action.

[(f)**] (G)** (1) A person found to have made a false or fraudulent representation or omission known to be false or made with deliberate ignorance or reckless disregard for its truth or falsity regarding a material fact in connection with any prevailing wage payroll record required by § 17–220 of this subtitle is liable for a civil penalty of $1,000 for each falsified record.

(2) The penalty shall be recoverable in a civil action filed in accordance with this section and paid to the State General Fund.

[(g)**] (H)** An employer may not discharge, threaten, or otherwise retaliate or discriminate against an employee regarding compensation or other terms and conditions of employment because that employee or an organization or other person acting on behalf of that employee:

(1) reports or makes a complaint under this subtitle or otherwise asserts the worker's rights under this section; or

(2) participates in any investigation, hearing, or inquiry held by the Commissioner under § 17–221 of this subtitle.

[(h)**] (I)** (1) A contractor or subcontractor may not retaliate or discriminate against an employee in violation of this section.

(2) If a contractor or subcontractor retaliates or discriminates against an employee in violation of this section, the affected employee may file an action in any court of competent jurisdiction within 3 years from the employee's knowledge of the action.

(3) If the court finds in favor of the employee in an action brought under this subsection, the court shall order that the contractor or subcontractor:

(i) reinstate the employee or provide the employee restitution, as appropriate;

(ii) pay the employee an amount equal to three times the amount of back wages and fringe benefits calculated from the date of the violation; and

(iii) pay reasonable counsel fees and other costs.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2018.

May 25, 2018

The Honorable Michael E. Busch
Speaker of the House
H–101 State House
Annapolis, MD 21401

Dear Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed House Bill 1392 – *Health – Emergency Evaluees and Involuntarily Admitted or Committed Individuals – Procedures*.

This bill requires a health care provider to disclose legal and medical records (including mental health records) without the authorization of an individual to a public defender who states in writing that the Office of the Public Defender (OPD) represents the individual in an involuntary admission or release proceeding under the Health – General Article or a commitment or release proceeding under the Criminal Procedure Article. The bill also requires facilities to notify OPD about the admission of an emergency evaluee or a change in admission status.

Senate Bill 864, which was passed by the General Assembly and signed by me, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 1392.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

House Bill 1392

AN ACT concerning

Health – Emergency Evaluees and Involuntarily Admitted or Committed Individuals – Procedures

FOR the purpose of ~~requiring a health care provider to disclose certain directory information about a patient to a certain division in the Office of the Public Defender under certain circumstances; requiring a health care provider to disclose certain directory information under a certain provision of this Act regardless of whether the request refers to the patient by name;~~ requiring a health care provider to disclose ~~a~~ certain medical ~~record~~ and legal records without the authorization of ~~a person in interest~~ an individual to ~~legal counsel for the patient~~ a public defender who states in writing that the Office of the Public Defender represents the individual ~~or recipient in connection with or for use~~ in certain proceedings; requiring that certain records be provided within a certain time period and only under certain circumstances; requiring a certain emergency facility to notify a certain division in the Office in a certain manner and within a certain time period ~~of~~ after the ~~acceptance~~ completion

of an application for the involuntary admission of an emergency evaluee ~~into the facility~~; providing that a certain notice requirement does not apply to a certain patient; prohibiting a hearing officer from ordering the release of a certain individual on ~~the~~ *certain* grounds ~~that the emergency facility did not provide certain notice~~; requiring that notice be given to a certain division in the Office of a certain admission of an individual into a certain facility or certain hospital within a certain period of time after the admission of the individual into the facility or hospital; ~~requiring that certain notices include certain documents; requiring a certain individual who has been involuntarily admitted to a certain facility or a certain hospital to be evaluated by certain staff within a certain time period before a certain hearing;~~ requiring a certain facility to notify a certain division in the Office in a certain manner of a certain admission of an individual into the facility within a certain period of time after a certain change in the admission status of the individual; ~~defining certain terms; making conforming and stylistic changes;~~ and generally relating to the procedures related to emergency evaluees and involuntarily admitted or committed individuals.

BY repealing and reenacting, with amendments,
Article – Health – General
Section ~~4–302(c), 4–306(b)(11) and (12), 4–307(k)(1)(v) and (vi), 10–624,~~ 4–306(c), 10–625, 10–631(b), *10–632,* and 10–803
Annotated Code of Maryland
(2015 Replacement Volume and 2017 Supplement)

BY adding to
Article – Health – General
Section ~~4–306(b)(13), 4–307(k)(1)(vii), and 10–632(h)~~ 4–306(c) and 4–307(l)
Annotated Code of Maryland
(2015 Replacement Volume and 2017 Supplement)

BY repealing and reenacting, without amendments,
Article – Health – General
Section 10–631(a)
Annotated Code of Maryland
(2015 Replacement Volume and 2017 Supplement)

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

Article – Health – General

~~4–302.~~

~~(c) (1) **(I)** Unless the patient has restricted or prohibited the disclosure of directory information**, AND SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION**, a health care provider may disclose directory information about a patient to an individual who has asked for the patient by name.~~

~~[(2)]~~ ~~(II)~~ ~~A health care provider shall:~~

~~[(i)]~~ ~~1.~~ ~~Inform a patient of the health care information that the health care provider may include in a directory and the persons to whom the health care provider may disclose the information; and~~

~~[(ii)]~~ ~~2.~~ ~~As soon as practicable, provide the patient with the opportunity to restrict or prohibit disclosure of directory information.~~

~~[(3)]~~ ~~(III)~~ ~~If providing an opportunity under [paragraph (2)(ii) of this subsection] SUBPARAGRAPH (II)2 OF THIS PARAGRAPH to restrict or prohibit the disclosure of directory information is not practicable because of the patient's incapacity or need for emergency care or treatment, a health care provider may disclose the patient's directory information if the disclosure is:~~

~~[(i)]~~ ~~1.~~ ~~Consistent with a prior expressed preference of the patient that is known to the health care provider; and~~

~~[(ii)]~~ ~~2.~~ ~~Determined to be, based on the health care provider's professional judgment, in the patient's best interest.~~

~~(2)~~ ~~(I)~~ ~~A HEALTH CARE PROVIDER SHALL DISCLOSE DIRECTORY INFORMATION ABOUT A PATIENT TO THE MENTAL HEALTH DIVISION IN THE OFFICE OF THE PUBLIC DEFENDER IF THE PATIENT IS:~~

~~1.~~ ~~INVOLUNTARILY ADMITTED TO THE HEALTH CARE FACILITY UNDER TITLE 10, SUBTITLE 6 OF THIS ARTICLE; OR~~

~~2.~~ ~~ADMITTED TO THE HEALTH CARE FACILITY AS A COMMITTED PERSON UNDER TITLE 3 OF THE CRIMINAL PROCEDURE ARTICLE.~~

~~(II)~~ ~~A HEALTH CARE PROVIDER SHALL DISCLOSE DIRECTORY INFORMATION ABOUT A PATIENT UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH REGARDLESS OF WHETHER THE REQUEST REFERS TO THE PATIENT BY NAME.~~

4–306.

~~(b)~~ ~~A health care provider shall disclose a medical record without the authorization of a person in interest:~~

~~(11)~~ ~~To a local drug overdose fatality review team established under Title 5, Subtitle 9 of this article as necessary to carry out its official functions, subject to:~~

~~(i) The additional limitations under § 4–307 of this subtitle for disclosure of a medical record developed primarily in connection with the provision of mental health services; and~~

~~(ii) Any additional limitations for disclosure or redisclosure of a medical record developed in connection with the provision of substance abuse treatment services under State law or 42 U.S.C. § 290DD–2 and 42 C.F.R. Part 2; [or]~~

~~(12) To a guardian ad litem appointed by a court to protect the best interests of a minor or a disabled or elderly individual who is a victim of a crime or a delinquent act, for the sole purpose and use of the guardian ad litem in carrying out the guardian ad litem's official function to protect the best interests of the minor or the disabled or elderly individual in a criminal or juvenile delinquency court proceeding as permitted under 42 C.F.R. § 164.512(e); OR~~

~~**(13) TO LEGAL COUNSEL FOR THE PATIENT OR RECIPIENT IN CONNECTION WITH OR FOR USE IN:**~~

(C) (1) SUBJECT TO PARAGRAPHS (2) THROUGH (4) OF THIS SUBSECTION, A HEALTH CARE PROVIDER SHALL DISCLOSE MEDICAL AND LEGAL RECORDS WITHOUT THE AUTHORIZATION OF AN INDIVIDUAL TO A PUBLIC DEFENDER WHO STATES IN WRITING THAT THE OFFICE OF THE PUBLIC DEFENDER REPRESENTS THE INDIVIDUAL IN:

(I) AN INVOLUNTARY ADMISSION PROCEEDING UNDER TITLE 10, SUBTITLE 6 OF THIS ARTICLE;

(II) A RELEASE PROCEEDING UNDER TITLE 10, SUBTITLE 8 OF THIS ARTICLE; OR

(III) A COMMITMENT OR RELEASE PROCEEDING UNDER TITLE 3 OF THE CRIMINAL PROCEDURE ARTICLE~~,~~.

(2) LEGAL RECORDS REQUIRED TO BE DISCLOSED UNDER PARAGRAPH (1) OF THIS SUBSECTION INCLUDE:

(I) AN EMERGENCY PETITION;

(II) AN APPLICATION FOR INVOLUNTARY ADMISSION; AND

(III) A CERTIFICATION FOR INVOLUNTARY ADMISSION.

(3) THE RECORDS DISCLOSED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE LIMITED TO THOSE RECORDS NEEDED BY THE PUBLIC

DEFENDER TO REPRESENT THE INDIVIDUAL IN THE PROCEEDINGS LISTED IN PARAGRAPH (1) OF THIS SUBSECTION.

(4) RECORDS PROVIDED UNDER PARAGRAPH (1)(I) OF THIS SUBSECTION SHALL BE PROVIDED:

(I) WITHIN 24 HOURS AFTER THE ~~CERTIFICATION OF INVOLUNTARY ADMISSION~~ *HEALTH CARE PROVIDER RECEIVES A WRITTEN REQUEST FOR THE RECORDS FROM THE PUBLIC DEFENDER*; AND

(II) ONLY IF THE INDIVIDUAL HAS NOT YET RETAINED PRIVATE COUNSEL.

[(c)**]** **(D)** When a disclosure is sought under this section:

(1) A written request for disclosure or written confirmation by the health care provider of an oral request that justifies the need for disclosure shall be inserted in the medical record of the patient or recipient; and

(2) Documentation of the disclosure shall be inserted in the medical record of the patient or recipient.

4–307.

~~(k) (1) A health care provider shall disclose a medical record without the authorization of a person in interest:~~

~~(v) In accordance with a subpoena for medical records on specific recipients:~~

~~1. To health professional licensing and disciplinary boards for the sole purpose of an investigation regarding licensure, certification, or discipline of a health professional or the improper practice of a health profession; and~~

~~2. To grand juries, prosecution agencies, and law enforcement agencies under the supervision of prosecution agencies for the sole purposes of investigation and prosecution of a provider for theft and fraud, related offenses, obstruction of justice, perjury, unlawful distribution of controlled substances, and of any criminal assault, neglect, patient abuse or sexual offense committed by the provider against a recipient, provided that the prosecution or law enforcement agency shall:~~

~~A. Have written procedures which shall be developed in consultation with the Director to maintain the medical records in a secure manner so as to protect the confidentiality of the records; and~~

~~B. In a criminal proceeding against a provider, to the maximum extent possible, remove and protect recipient identifying information from the medical records used in the proceeding; [or]~~

~~(vi) In the event of the death of a recipient, to the office of the medical examiner as authorized under § 5–309 or § 10–713 of this article; OR~~

~~(VII) TO LEGAL COUNSEL FOR THE RECIPIENT IN CONNECTION WITH OR FOR USE IN:~~

(L) (1) SUBJECT TO PARAGRAPHS (2) THROUGH (4) OF THIS SUBSECTION, A HEALTH CARE PROVIDER SHALL DISCLOSE MEDICAL AND LEGAL RECORDS WITHOUT THE AUTHORIZATION OF AN INDIVIDUAL TO A PUBLIC DEFENDER WHO STATES IN WRITING THAT THE OFFICE OF THE PUBLIC DEFENDER REPRESENTS THE INDIVIDUAL IN:

~~1.~~ (I) AN INVOLUNTARY ADMISSION PROCEEDING UNDER TITLE 10, SUBTITLE 6 OF THIS ARTICLE;

~~2.~~ (II) A RELEASE PROCEEDING UNDER TITLE 10, SUBTITLE 8 OF THIS ARTICLE; OR

~~3.~~ (III) A COMMITMENT OR RELEASE PROCEEDING UNDER TITLE 3 OF THE CRIMINAL PROCEDURE ARTICLE~~.~~.

(2) LEGAL RECORDS REQUIRED TO BE DISCLOSED UNDER PARAGRAPH (1) OF THIS SUBSECTION INCLUDE:

(I) AN EMERGENCY PETITION;

(II) AN APPLICATION FOR INVOLUNTARY ADMISSION; AND

(III) A CERTIFICATION FOR INVOLUNTARY ADMISSION.

(3) THE RECORDS DISCLOSED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE LIMITED TO THOSE RECORDS NEEDED BY THE PUBLIC DEFENDER TO REPRESENT THE INDIVIDUAL IN THE PROCEEDINGS LISTED IN PARAGRAPH (1) OF THIS SUBSECTION.

(4) RECORDS PROVIDED UNDER PARAGRAPH (1)(I) OF THIS SUBSECTION SHALL BE PROVIDED:

(I) WITHIN 24 HOURS AFTER THE ~~CERTIFICATION OF INVOLUNTARY ADMISSION~~ *HEALTH CARE PROVIDER RECEIVES A WRITTEN REQUEST FOR THE RECORDS FROM THE PUBLIC DEFENDER*; AND

(II) ONLY IF THE INDIVIDUAL HAS NOT YET RETAINED PRIVATE COUNSEL.

~~10–624.~~

~~(a) (1) A peace officer shall take an emergency evaluee to the nearest emergency facility if the peace officer has a petition under Part IV of this subtitle that:~~

~~(i) Has been endorsed by a court within the last 5 days; or~~

~~(ii) Is signed and submitted by a physician, psychologist, clinical social worker, licensed clinical professional counselor, clinical nurse specialist in psychiatric and mental health nursing, psychiatric nurse practitioner, licensed clinical marriage and family therapist, health officer or designee of a health officer, or peace officer.~~

~~(2) After a peace officer takes the emergency evaluee to an emergency facility, the peace officer need not stay unless, because the emergency evaluee is violent, a physician asks the supervisor of the peace officer to have the peace officer stay.~~

~~(3) A peace officer shall stay until the supervisor responds to the request for assistance. If the emergency evaluee is violent, the supervisor shall allow the peace officer to stay.~~

~~(4) If a physician asks that a peace officer stay, a physician shall examine the emergency evaluee as promptly as possible.~~

~~(b) (1) (I) If the petition is executed properly, the emergency facility shall accept the emergency evaluee.~~

10–625.

(a) If an emergency evaluee meets the requirements for an involuntary admission and is unable or unwilling to agree to a voluntary admission under this subtitle, the examining physician shall take the steps needed for involuntary admission of the emergency evaluee to an appropriate facility, which may be a general hospital with a licensed inpatient psychiatric unit.

(b) (1) If the examining physician is unable to have the emergency evaluee admitted to a facility, the physician shall notify the Department.

(2) Within 6 hours after notification, the Department shall provide for admission of the emergency evaluee to an appropriate facility.

~~(II)~~ (C) (1) WITHIN ~~24~~ 30 HOURS AFTER THE ~~EMERGENCY FACILITY ACCEPTS THE EMERGENCY EVALUEE~~ EMERGENCY FACILITY COMPLETES AN APPLICATION FOR THE INVOLUNTARY ADMISSION OF AN EMERGENCY EVALUEE, THE EMERGENCY FACILITY SHALL NOTIFY THE MENTAL HEALTH DIVISION IN THE OFFICE OF THE PUBLIC DEFENDER, BY E–MAIL OR FACSIMILE, OF THE ~~ACCEPTANCE OF THE EMERGENCY EVALUEE INTO THE EMERGENCY FACILITY~~ COMPLETION OF THE APPLICATION.

~~(III)~~ (2) THE NOTICE REQUIRED UNDER ~~SUBPARAGRAPH (II)~~ PARAGRAPH (1) OF THIS ~~PARAGRAPH~~ SUBSECTION SHALL INCLUDE ANY LEGAL DOCUMENTS RELATING TO THE ACCEPTANCE OF THE EMERGENCY EVALUEE INTO THE EMERGENCY FACILITY, INCLUDING THE EMERGENCY PETITION, APPLICATION FOR INVOLUNTARY ADMISSION, AND CERTIFICATION FOR INVOLUNTARY ADMISSION.

(3) ~~A HEARING OFFICER MAY NOT ORDER THE RELEASE OF AN INDIVIDUAL WHO MEETS THE REQUIREMENTS FOR INVOLUNTARY ADMISSION ON THE GROUNDS THAT THE EMERGENCY FACILITY DID NOT NOTIFY THE OFFICE OF THE PUBLIC DEFENDER OF THE CERTIFICATION OF THE EMERGENCY EVALUEE FOR INVOLUNTARY ADMISSION WITHIN 30 HOURS AFTER THE EMERGENCY FACILITY COMPLETES THE APPLICATION FOR INVOLUNTARY ADMISSION AS REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION.~~

~~(4)~~ THE NOTICE REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION DOES NOT APPLY TO A PATIENT WHO AGREES TO VOLUNTARY ADMISSION.

~~(2) Within 6 hours after an emergency evaluee is brought to an emergency facility, a physician shall examine the emergency evaluee, to determine whether the emergency evaluee meets the requirements for involuntary admission.~~

~~(3) Promptly after the examination, the emergency evaluee shall be released unless the emergency evaluee:~~

~~(i) Asks for voluntary admission; or~~

~~(ii) Meets the requirements for involuntary admission.~~

~~(4) An emergency evaluee may not be kept at an emergency facility for more than 30 hours.~~

10–631.

(a) The Administration shall prepare and provide each facility with standard forms that provide, in clear and simple words, at least the following information:

(1) Notice of the admission of the individual;

(2) The right of the individual to consult with a lawyer that the individual chooses;

(3) The availability of the services of the legal aid bureaus, lawyer referral services, and other agencies that exist for the referral of individuals who need legal counsel;

(4) The right of the individual to call or write a lawyer or a referral agency or to have someone do so on behalf of the individual; and

(5) In substance:

(i) Those provisions of this subtitle under which the individual is admitted;

(ii) The provisions of this section; and

(iii) The provisions of Subtitle 7 of this title.

(b) (1) Within 12 hours after initial confinement of an individual to any facility or a Veterans' Administration hospital, the form provided for in this section shall be read and given to the individual.

(2) If the individual does not understand the notice required by this section and its legal effect, the notice also shall be given to:

(i) The parent, guardian, or next of kin of the individual;

(ii) The applicant for an involuntary admission of the individual; and

(iii) Any other individual who has a significant interest in the status of the individual.

(3) In any event, if possible, notice of the admission shall be given to the parent, guardian, or next of kin of the individual.

(4) Notice of the admission of a minor shall be given as promptly as possible.

(5) ~~(I)~~ WITHIN 24 HOURS AFTER THE ADMISSION OF THE INDIVIDUAL, NOTICE OF THE ADMISSION SHALL BE GIVEN TO THE MENTAL HEALTH DIVISION IN THE OFFICE OF THE PUBLIC DEFENDER.

~~**(II) THE NOTICE REQUIRED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL INCLUDE ANY LEGAL DOCUMENTS RELATING TO THE ADMISSION.**~~

~~10–632.~~

~~**(II) (1) (I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.**~~

~~**(II) "GERIATRIC EVALUATION SERVICES STAFF" MEANS THE STAFF OF COUNTY HEALTH DEPARTMENTS WHO EVALUATE THE APPROPRIATENESS OF ADMISSION TO FACILITIES OR VETERANS' ADMINISTRATION HOSPITALS OF INDIVIDUALS AT LEAST 65 YEARS OLD.**~~

~~**(III) "SEMIANNUAL HEARING" MEANS A SEMIANNUAL HEARING SCHEDULED BY A FACILITY OR VETERANS' ADMINISTRATION HOSPITAL TO DETERMINE WHETHER AN INDIVIDUAL WHO HAS BEEN ADMITTED INVOLUNTARILY TO THE FACILITY OR HOSPITAL CONTINUES TO MEET THE REQUIREMENTS FOR INVOLUNTARY ADMISSION UNDER § 10–617 OF THIS SUBTITLE.**~~

~~**(2) AN INDIVIDUAL WHO HAS BEEN ADMITTED INVOLUNTARILY UNDER PART III OF THIS SUBTITLE AND IS AT LEAST 65 YEARS OLD SHALL BE EVALUATED BY GERIATRIC EVALUATION SERVICES STAFF WITHIN 2 WEEKS BEFORE A SEMIANNUAL HEARING IS HELD BY THE FACILITY OR VETERANS' ADMINISTRATION HOSPITAL.**~~

10–632.

(a) Any individual proposed for involuntary admission under Part III of this subtitle shall be afforded a hearing to determine whether the individual is to be admitted to a facility or a Veterans' Administration hospital as an involuntary patient or released without being admitted.

(b) The hearing shall be conducted within 10 days of the date of the initial confinement of the individual.

(c) (1) The hearing may be postponed for good cause for no more than 7 days, and the reasons for the postponement shall be on the record.

(2) A decision shall be made within the time period provided in paragraph (1) of this subsection.

(d) The Secretary shall:

(1) Adopt rules and regulations on hearing procedures; and

(2) Designate an impartial hearing officer to conduct the hearings.

(e) The hearing officer shall:

(1) Consider all the evidence and testimony of record; and

(2) Order the release of the individual from the facility unless the record demonstrates by clear and convincing evidence that at the time of the hearing each of the following elements exist as to the individual whose involuntary admission is sought:

(i) The individual has a mental disorder;

(ii) The individual needs in–patient care or treatment;

(iii) The individual presents a danger to the life or safety of the individual or of others;

(iv) The individual is unable or unwilling to be voluntarily admitted to the facility;

(v) There is no available less restrictive form of intervention that is consistent with the welfare and safety of the individual; and

(vi) If the individual is 65 years old or older and is to be admitted to a State facility, the individual has been evaluated by a geriatric evaluation team and no less restrictive form of care or treatment was determined by the team to be appropriate.

(F) A HEARING OFFICER MAY NOT ORDER THE RELEASE OF AN INDIVIDUAL WHO MEETS THE REQUIREMENTS FOR INVOLUNTARY ADMISSION UNDER SUBSECTION (E)(2) OF THIS SECTION ON THE GROUNDS THAT A HEALTH CARE PROVIDER OR AN EMERGENCY OR OTHER FACILITY DID NOT COMPLY WITH DISCLOSURE OR NOTICE REQUIREMENTS UNDER § 10–625(C) OR § 10–631(B)(5) OF THIS SUBTITLE, § 10–803(B)(2) OF THIS TITLE, OR § 4–306(C) OR § 4–307(L) OF THIS ARTICLE.

[*(f)****] (G)*** *The parent, guardian, or next of kin of an individual involuntarily admitted under this subtitle:*

(1) Shall be given notice of the hearing on the admission; and

(2) May testify at the hearing.

[*(g)****] (H)*** *If a hearing officer enters an order for involuntary commitment under Part III of this subtitle and the hearing officer determines that the individual cannot safely*

possess a firearm based on credible evidence of dangerousness to others, the hearing officer shall order the individual who is subject to the involuntary commitment to:

(1) Surrender to law enforcement authorities any firearms in the individual's possession; and

(2) Refrain from possessing a firearm unless the individual is granted relief from firearms disqualification in accordance with § 5–133.3 of the Public Safety Article.

10–803.

(a) An individual who is admitted voluntarily to a facility, on an informal request, may leave the facility at any time between 9 a.m. and 4 p.m., unless the admission status of the individual has been changed to an involuntary admission.

(b) **(1)** An individual who has been admitted voluntarily, under a formal written application, may not be held for more than 3 days after the individual asks for release, unless the admission status of the individual has been changed to an involuntary admission.

(2) IF THE ADMISSION STATUS OF THE INDIVIDUAL IS CHANGED FROM A VOLUNTARY TO AN INVOLUNTARY ADMISSION, THE FACILITY SHALL NOTIFY THE MENTAL HEALTH DIVISION IN THE OFFICE OF THE PUBLIC DEFENDER, BY E–MAIL OR FACSIMILE, OF THE INVOLUNTARY ADMISSION WITHIN 24 HOURS AFTER THE CHANGE IN ADMISSION STATUS IS MADE.

(c) A minor who has been admitted voluntarily, on the application of a parent or guardian of the minor, may not be held for more than 3 days after the applicant for the admission asks for release, unless the admission status of the minor has been changed to an involuntary admission.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2018.

April 4, 2018

The Honorable Michael E. Busch
Speaker of the House
State House
Annapolis, MD 21401

Dear Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed House Bill 1783 – *21st Century School Facilities Act*.

At a time when students, parents, teachers, and communities are demanding greater accountability and oversight of local education systems, this bill represents one of the most irresponsible, partisan, and tone–deaf legislative decisions ever made by members of the Maryland General Assembly. It is incredibly disappointing that Maryland's citizens are being deliberately ignored at a time when their concerns could not be more clear. This piece of legislation irresponsibly takes away fiscal oversight from statewide elected officials at the same time that a number of ethical lapses, criminal charges, grading irregularities, and procurement crises have occurred in multiple Maryland school systems.

Instead of listening to Marylanders, all forms of legislative chicanery and maneuvering have been utilized to pass House Bill 1783, stripping approval and real oversight of school construction funding away from the statewide elected and bipartisan Board of Public Works. For reasons only truly known by a handful of Annapolis insiders, this bill has placed billions of taxpayer dollars into the hands of the newly titled Interagency Commission on School Construction, composed of unelected and largely unaccountable political appointees and lobbyists – obviously ripe for potential conflicts of interest. As 50 years of history clearly prove, there is absolutely no substitute for the Board of Public Works when it comes to oversight of public funds and ensuring Maryland students are learning in school facilities that are safe and healthy.

Making matters even worse, public statements by legislative leadership, including the Senate President, have clearly indicated that this legislation is political payback against the Comptroller. It goes without saying, that ending 50 years of successful and proper executive and legislative oversight of school construction funds over petty political and personal differences is not responsible governance. This is just plain wrong, and no attempt to hide this truth will make it right.

The fact that the work product of the 21st Century School Facilities Commission – which has spent the last two years diligently studying how we can modernize Maryland's public school construction program – has been expropriated makes this situation even more troubling. I was looking forward to signing House Bill 1783 as originally drafted, which was intended to streamline school construction and raise annual funding to $400 million to be earmarked for school building and renovation. It also does a tremendous disservice to the citizen volunteers who worked for nearly two years on the 21st Commission to up–end their efforts to modernize school construction for purposes of political retribution.

As you are well aware, in an underhanded backroom deal, with no notice, no public hearings, or public input, and less than two weeks left in the legislative session, the House Appropriations Committee snuck in an amendment on House Bill 1783, stripping authority from the Board of Public Works over school construction. The Senate Budget and Taxation Committee then hastily passed the bill after being pulled off the floor of the Senate.

In the dwindling days of the legislative session, House and Senate leadership rushed through a major overhaul of state government that has operated well for decades, significantly curtailing oversight, accountability, and transparency. In a sad and dispiriting twist of irony, transparency was a key topic to the Commission's deliberations, which Commission members added as a fifth theme during their 2017 deliberations. In the 21st Century School Facilities final report published in January of this year, it states "the entire process of designing, funding, building, and maintaining public school facilities **must be fully transparent**."

Conversely, the process by which the final product of House Bill 1783 arrived on my desk has been fundamentally opaque. In contrast, the Board of Public Works operates in a completely transparent manner. Public meetings are held and advertised in advance, which are lived streamed and open to the public. The Board posts agendas and minutes promptly that are accessible for Maryland taxpayers to see how their dollars are being spent.

Since the Board of Public Works was granted the authority to oversee State funding for local school construction projects in 1943, the Board has overseen and managed the process to distribute billions of taxpayer dollars and assured the public that those funds were being spent wisely. The Board is composed of the state's three fiscal officers. The Board embodies accountability and transparency, ultimately providing a final check over the billions of dollars spent on school construction funds.

House Bill 1783 eradicates this oversight process that has served students, teachers, and parents for decades. The Board has rightly exerted public pressure on local school systems to address serious, and in some instances inhumane, conditions in their schools. My fellow Board members and I have listened earnestly to the pleas and concerns from Marylanders whose phone calls, emails, and letters went unanswered by their school officials and local elected officials.

When more than 50,000 students in the Baltimore region were enduring conditions that were completely unacceptable due to the lack of air conditioning in the summer and heat in the winter, the members of the Board were there to help them. When students, teachers, and families came to the Board in response to the mold crisis in Howard County, we were there to help them. These are just a few of the countless instances in which the Board directly addressed the clear deficiencies in our local school systems and have safeguarded taxpayer investments in school construction and maintenance.

The idea that an unelected group of political appointees will respond to the needs of the public in an appropriate and similar manner flies in the face of common sense and is insulting to our citizens. There are no term limits for these political appointees and no reference in the legislation to the selection and removal process of Commission members. Inexplicably, the House even voted down an amendment to prevent individuals deriving their income from lobbying from serving on the Commission, only giving rise to further concerns of future conflicts of interest.

At a time when criminality, unethical behavior and mismanagement continue to fester in our public school systems, House Bill 1783 will only serve to further reduce transparency

and oversight. Our students, teachers, and families who depend on the Board of Public Works to hold local officials accountable for their actions are the ones being hurt by this legislation, and that will never be acceptable to me.

I will never sit by and allow our children to be used as political pawns in what is a perplexing and ultimately deeply depressing situation that you have chosen to create.

For these reasons, I have vetoed House Bill 1783.

Sincerely,

Lawrence J. Hogan, Jr.
Governor

Cc: The Honorable Thomas V. Mike Miller, Jr.

House Bill 1783

AN ACT concerning

21st Century School Facilities Act

FOR the purpose of requiring a county board of education to submit the purchase of ground or a school site to the State Superintendent of Schools to approve or disapprove within a certain period of time; authorizing certain exceptions to the requirement that certain public school property must be held in trust by a county board; authorizing a county board to contract with a county revenue authority in a public–private partnership agreement; establishing a design–construct–operate–maintain–finance arrangement as an alternative financing method available for use by ~~a county or~~ a county board; authorizing a county board to solicit certain proposals and lease certain property; authorizing certain alternative financing methods to include certain reserves; repealing certain requirements relating to regulations for alternative financing methods; repealing the requirement for the use of certain standards and procedures for qualifying and approving certain alternative financing methods; providing that certain provisions of law and regulations do not apply to projects that use alternative financing methods; prohibiting a certain construction of certain provisions of this Act; requiring projects that use alternative financing methods and receive State funding to be submitted to the Interagency Commission on School Construction for review and to comply with certain requirements; requiring each county board to make a certain determination regarding the designation of a school as an emergency management shelter; altering the requirements for awarding contracts to bidders for school buildings, improvements, supplies, or equipment; encouraging and authorizing county boards to use certain procurement methods; exempting certain lease payments from a certain county funding requirement under certain circumstances; requiring the State Board of Education to approve a certain waiver request subject to certain limitations; authorizing the State Board to approve a

certain waiver request subject to a certain limitation; requiring the State Board to determine the number of fiscal years that a certain waiver is applicable and the minimum requirement of certain funding for the fiscal year following the expiration of a certain waiver; renaming the Interagency Committee on School Construction to be the Interagency Commission on School Construction; repealing the requirement that the Board of Public Works establish the Interagency Committee; providing that the Interagency Commission is an independent commission that functions within the State Department of Education; providing for the purpose, membership, and chair of the Interagency Commission; prohibiting a certain individual from being an appointed member of the Interagency Commission ~~from being a certain elected official or government employee~~; repealing a provision authorizing the Board of Public Works to delegate certain administrative and budgetary authority; prohibiting a member of the Interagency Commission from receiving compensation, but authorizing the reimbursement of certain expenses; authorizing the Interagency Commission to employ staff; repealing the requirement that the Board of Public Works approve the appointment of the Executive Director; requiring the Interagency Commission, rather than the Board of Public Works, to define by regulation certain eligible and ineligible public school construction or capital improvement costs; requiring certain systems or items to have a certain median useful life to be an eligible public school construction cost; requiring the Interagency Commission, rather than the Board of Public Works, to adopt certain regulations regarding modular construction and indoor air quality; requiring the State to pay certain costs of certain projects and improvements approved by the Interagency Commission, rather than by the Board of Public Works; authorizing the Interagency Commission, rather than the Board of Public Works, to adopt regulations for the administration of the Public School Construction Program; requiring the regulations that govern the Public School Construction Program to establish a process for appeal of Interagency Commission decisions, alter the agency authorized to withhold certain funds in certain circumstances, and contain requirements for preventative maintenance plans and the submission of long–range plans and certain annual plans that include plans for specific projects; exempting certain regulations and procedures of the Interagency Commission from certain restrictions on the use of certain bond sale proceeds; establishing that certain authority, responsibilities, powers, and duties of certain governmental entities are subject to the regulations adopted by the Interagency Commission for the Public School Construction Program; prohibiting the Interagency Commission from partially funding a certain school construction project unless the local education agency has requested partial funding; establishing that certain reserved funds may not supplant certain additional funding; requiring the Interagency Commission, rather than the Board of Public Works, to provide certain notice of a certain recommended allocation of school construction funds; requiring the Interagency Commission, rather than the Board of Public Works, to approve projects comprising a certain percent of a certain preliminary school construction allocation during a certain period of time each year; requiring the Interagency Commission to establish a certain appeal process for local jurisdictions; repealing the provision authorizing the Board of Public Works to allocate a certain remaining allocation; requiring the Interagency Commission, on or after a certain date each year, to approve a certain percent of the school construction allocation

included in the capital budget bill as enacted; providing that certain decisions and project approvals by the Interagency Commission are final and not subject to additional appeals or approvals by certain other units; requiring the Interagency ~~Committee on School Construction~~ Commission to establish and provide certain incentives after a certain review and comment period; requiring certain incentives to be supplemental to certain other funding; requiring the Interagency ~~Committee~~ Commission to allow electronic submission of any documents or data required by the Interagency ~~Committee~~ Commission; requiring the Interagency ~~Committee~~ Commission to be a central repository for certain information; requiring the Interagency ~~Committee~~ Commission to take certain actions in consultation with the ~~School Construction Technical and Innovative Assistance Office~~ Maryland Stadium Authority; requiring the Interagency Commission to work with a local education agency with declining enrollment to take certain actions; altering the State agency responsible for conducting inspections of public school buildings; requiring the Interagency ~~Committee~~ Commission, in consultation with local education agencies, to develop and adopt certain standards and to create a certain index for educational facilities on or before a certain date; providing for the purpose of certain standards and requiring the standards to include certain categories; requiring the Interagency Commission to periodically review and update certain standards; requiring the Interagency ~~Committee~~ Commission to conduct a certain facility assessment under certain conditions on or before a certain date and ~~annually thereafter~~ to develop standards and procedures for certain updates; requiring local education agencies to ~~follow certain standards~~ cooperate and contribute certain data ~~annually~~ to update a certain facility assessment; ~~requiring the Interagency Committee to compare certain data;~~ requiring the Interagency ~~Committee~~ Commission to manage the Integrated Master Facility Asset Library and to enter certain data into the Library; requiring the Interagency ~~Committee~~ Commission to ~~establish rankings annually based on certain criteria~~ share the data results with the Workgroup on the Assessment and Funding of School Facilities and, with the Workgroup, consider certain matters; requiring the Interagency Commission to adopt certain regulations based on the Workgroup's recommendations, and not before a certain date, for use in certain funding decisions; requiring each county board to develop and adopt certain preventative maintenance schedules, based on industry standards, for certain public school facilities; ~~requiring certain preventative maintenance schedules to be based on certain standards and to be subject to certain review and approval;~~ requiring each county board to report annually on or before a certain date to the Interagency ~~Committee~~ Commission on the board's compliance with certain preventative maintenance schedules; requiring the Interagency ~~Committee~~ Commission to enter certain information into the Integrated Master Facility Asset Library; requiring the Interagency Commission, rather than the Board of Public Works, to establish a process to allow a school system to obtain a waiver from certain high performance building requirements and to adopt certain regulations; specifying the process for the review and approval of public school construction projects; requiring certain reviews and approvals of certain educational specifications and schematic designs for certain projects; prohibiting certain change orders for certain projects from being subject to certain reviews and approvals; prohibiting a certain percentage of a certain State allocation from being withheld; requiring certain reviews and approvals of

certain design and construction documents for certain projects; exempting certain local education agencies from the requirements for certain reviews and approvals if certain conditions are met; requiring the Department of General Services to develop a certain certification process and requiring the certification process to be subject to certain review and approval; exempting certain school construction projects from review by the Maryland State Department of Education; requiring certain provisions of law to prevail in the event of a conflict with certain regulations and procedures; establishing the Local Share of School Construction Costs Revolving Loan Fund as a special, nonlapsing fund; specifying the purpose of the Fund; requiring the Interagency ~~Committee~~ Commission to administer the Fund; requiring the State Treasurer to hold the Fund and the Comptroller to account for the Fund; specifying the contents of the Fund; specifying the purpose for which the Fund may be used; providing for the investment of money in and expenditures from the Fund; requiring interest earnings of the Fund to be credited to the Fund; specifying that money expended from the Fund is supplemental to certain other funds; requiring the Interagency ~~Committee~~ Commission to establish application procedures and certain eligibility criteria for loans from the Fund; exempting the Fund from a certain provision of law requiring interest earnings on State money to accrue to the General Fund of the State; requiring the State Treasurer, as directed by the Interagency Commission, to supervise the distribution of any money that the General Assembly appropriates for certain public school construction; establishing the School Safety Grant Program; establishing the purpose of the Program; requiring the Interagency Commission on School Construction to implement and administer the Program, in consultation with the Maryland Center for School Safety; requiring the Interagency Commission to provide certain grants under the Program; requiring the Interagency Commission to develop certain application procedures and eligibility requirements for the Program; requiring the Governor to provide a certain amount of money in the annual operating or capital budget bill for the Program; specifying that funding provided under the Program is supplemental to public school construction funding from other sources; requiring the Interagency Commission to adopt certain regulations for the Program; repealing the requirement that the Board of Public Works approve a grant under the solar energy pilot program; requiring the Interagency Commission, rather than the Board of Public Works, to adopt regulations requiring certain school construction project documents to include an evaluation of the use of solar technologies and regulations for funding certain projects at the Maryland School for the Blind; requiring the Maryland Green Building Council to develop certain guidelines for certain public school buildings; ~~establishing the School Construction Technical and Innovative Assistance Office in the Maryland Stadium Authority; providing for the purpose of the Office; authorizing the Office to take certain actions;~~ altering the State agency responsible for approving the use of money credited to the Public School Construction Fund; providing that Board of Public Works approval is not required for a contract or other authorization to spend the proceeds of a general obligation loan for public school construction projects; exempting capital expenditures for certain public school construction from certain review and approval requirements; declaring the intent of the General Assembly regarding funding for public school construction; providing for the recalculation of a certain funding goal after certain conditions are met; establishing

the Workgroup on Educational Development Specifications; establishing the Workgroup on the Assessment and Funding of School Facilities; providing for the composition, chair, and staffing of the workgroups; prohibiting a member of the workgroups from receiving certain compensation, but authorizing the reimbursement of certain expenses; requiring the workgroups to study and make recommendations regarding certain matters; requiring the workgroups to report their findings and recommendations to the Governor and the General Assembly on or before certain dates; requiring the Interagency ~~Committee~~ Commission to take certain actions, review certain matters, and examine certain requirements and to provide certain reports to the Governor and the General Assembly on or before certain dates; requiring the Interagency ~~Committee~~ Commission to explore the feasibility and funding of certain regional school construction projects and to report to the Commission on Innovation and Excellence in Education on or before a certain date; providing that certain regulations regarding the Public School Construction Program continue to be in force and effect unless altered by the Interagency Commission; providing that the Interagency Commission on School Construction is the successor of the Interagency Committee on School Construction; providing that certain names and titles of a certain unit and officials in laws and other documents mean the names and titles of the successor unit and officials; providing for the continuity of certain matters and persons; requiring the publisher of the Annotated Code, in consultation with the Department of Legislative Services, to correct cross–references and terminology in the Code that are rendered incorrect by this Act; making certain conforming changes; making certain stylistic changes; defining certain terms; and generally relating to the funding and administration of public school construction.

BY repealing and reenacting, with amendments,
Article – Education
Section 2–303(f), 4–114, 4–126, 5–112(c) and (h), 5–202(d)(8) and (11) through (13), 5–301, ~~5–302, 5–309, and 5–310~~ 5–301.1, 5–301.2, 5–302, 5–303, 5–304, 5–307(a), 5–309, 5–310, 5–312, and 8–315
Annotated Code of Maryland
(2014 Replacement Volume and 2017 Supplement)

BY adding to
Article – Education
Section 4–134, 5–112(h), ~~5–301.3, 5–314, and 5–315~~ 5–202(d)(11), and 5–314 through 5–317
Annotated Code of Maryland
(2014 Replacement Volume and 2017 Supplement)

BY repealing and reenacting, without amendments,
Article – Education
Section 5–202(d)(2)
Annotated Code of Maryland
(2018 Replacement Volume)

BY repealing and reenacting, without amendments,
Article – State Finance and Procurement
Section 4–809(a) ~~and 6–226(a)(2)(i)~~, 6–226(a)(2)(i), 7–326(a), and 12–202(g)
Annotated Code of Maryland
(2015 Replacement Volume and 2017 Supplement)

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 4–809(f) ~~and 6–226(a)(2)(ii)101. and 102.~~, 5–7B–07, 6–226(a)(2)(ii)101. and 102., 7–326(e), 8–301, and 12–202(a)
Annotated Code of Maryland
(2015 Replacement Volume and 2017 Supplement)

BY adding to
Article – State Finance and Procurement
Section 6–226(a)(2)(ii)103.
Annotated Code of Maryland
(2015 Replacement Volume and 2017 Supplement)

BY ~~adding to~~ repealing and reenacting, with amendments,
Article – Economic Development
Section ~~10–610.1~~ 10–645(l) and 10–646(a), (d), and (e)
Annotated Code of Maryland
(2008 Volume and 2017 Supplement)

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

Article – Education

2–303.

(f) (1) Subject to the bylaws, rules, and regulations of the State Board, **AND EXCEPT AS PROVIDED IN PARAGRAPH (5) OF THIS SUBSECTION,** the State Superintendent shall approve or disapprove each:

(i) Proposal for the purchase or sale of any ground, school site, or building;

(ii) Plan or specification for the remodeling of a school building if the remodeling costs more than $350,000;

(iii) Plan or specification for the construction of a new school building; and

(iv) Change order that costs more than $25,000 for the remodeling, restoration, or construction of a school building.

(2) If the State Superintendent disapproves any plan, specification, proposal, or change order, he shall state in writing the reasons for his disapproval.

(3) If the construction is to be done by a county board, the board may not begin until the plans and specifications are approved in writing by the State Superintendent.

(4) If the construction is to be done by contract, the contract is invalid without the written approval of the State Superintendent.

(5) FOR THE PURCHASE OF ANY GROUND OR SCHOOL SITE UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE COUNTY BOARD SHALL SUBMIT THE PURCHASE TO THE STATE SUPERINTENDENT FOR APPROVAL OR DISAPPROVAL NOT MORE THAN 3 YEARS BEFORE THE PROJECT IS SUBMITTED TO THE INTERAGENCY ~~COMMITTEE~~ COMMISSION ON SCHOOL CONSTRUCTION FOR LOCAL PLANNING APPROVAL.

4–114.

(a) All property granted, conveyed, devised, or bequeathed for the use of a particular public school or school system:

(1) Except as provided in **[**subsection**]** **SUBSECTIONS** (c) **THROUGH (E)** of this section, shall be held in trust for the benefit of the school or school system by the appropriate county board or, for real property in Baltimore City, by the Mayor and City Council of Baltimore; and

(2) Is exempt from all State and local taxes.

(b) Money invested in trust for the benefit of the public schools for any county or city is exempt from all State and local taxes.

(c) (1) A private entity **OR A COUNTY REVENUE AUTHORITY** may hold title to property used for a particular public school or local school system if the private entity **OR COUNTY REVENUE AUTHORITY** is contractually obligated to transfer title to the appropriate county board on a specified date.

(2) The conveyance of title of school property to a private entity **OR A COUNTY REVENUE AUTHORITY** for a specified term under this subsection may not be construed to prohibit the allocation of construction funds to an approved school construction project under the Public School Construction Program.

(3) A county or county board may convey or dispose of surplus land under the jurisdiction of the county or county board in exchange for public school construction or development services.

(D) (1) THIS SUBSECTION APPLIES ONLY TO A PROJECT THAT USES AN ALTERNATIVE FINANCING METHOD UNDER § 4–126 OF THIS SUBTITLE.

(2) A COUNTY BOARD MAY TRANSFER TITLE TO PROPERTY USED FOR A PARTICULAR PUBLIC SCHOOL OR LOCAL SCHOOL SYSTEM TO A ~~COUNTY,~~ COUNTY REVENUE AUTHORITY~~,~~ OR PRIVATE ENTITY IF THE ~~COUNTY,~~ COUNTY REVENUE AUTHORITY~~,~~ OR PRIVATE ENTITY IS CONTRACTUALLY OBLIGATED TO OPERATE AND MAINTAIN THE PROPERTY UNTIL:

(I) THE PROPERTY OUTLIVES ITS USEFUL LIFE;

(II) THE PROPERTY IS NO LONGER NEEDED FOR SCHOOL PURPOSES; OR

(III) AS OTHERWISE AGREED TO BY THE PARTIES.

(E) A ~~COUNTY,~~ COUNTY REVENUE AUTHORITY~~,~~ OR PRIVATE ENTITY MAY HOLD TITLE TO PROPERTY LEASED BY A COUNTY BOARD TO BE USED FOR A PARTICULAR PUBLIC SCHOOL OR LOCAL SCHOOL SYSTEM UNDER TERMS AGREED TO BY THE PARTIES.

4–126.

(a) **(1)** In this section**[**, "alternative**]** **THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.**

(2) "ALTERNATIVE financing methods" includes **ONE OR MORE OF THE FOLLOWING METHODS**:

[(1)**]** **(I)** Sale–leaseback arrangements, in which a county board agrees to transfer title to a property, including improvements, to a private entity that simultaneously agrees to lease the property back to the county board and, on a specified date, transfer title back to the county board;

[(2)**]** **(II)** Lease–leaseback arrangements, in which a county board leases a property to a private entity that improves the property and leases the property, with the improvements, back to the county board;

[(3)**]** **(III)** Public–private partnership agreements, in which a county board contracts with a **COUNTY** **REVENUE AUTHORITY** **OR A** private entity for the acquisition, design, construction, improvement, renovation, expansion, equipping, or financing of a public school, and may include provisions for cooperative use of the school or an adjacent property and generation of revenue to offset the cost of construction or use of the school;

[(4)**]** **(IV)** Performance–based contracting, in which a county board enters into an energy performance contract to obtain funding for a project with guaranteed energy savings over a specified time period;

[(5)**]** **(V)** Preference–based arrangements, by which a local governing body gives preference first to business entities located in the county and then to business entities located in other counties in the State for any construction that is not subject to prevailing wage rates under Title 17, Subtitle 2 of the State Finance and Procurement Article; **[**and**]**

[(6)**]** **(VI)** Design–build arrangements, that permit a county board to contract with a design–build business entity for the combined design and construction of qualified education facilities, including financing mechanisms where the business entity assists the local governing body in obtaining project financing**; AND**

(VII) DESIGN–CONSTRUCT–OPERATE–MAINTAIN–FINANCE ARRANGEMENTS THAT PERMIT A COUNTY BOARD TO CONTRACT WITH A COUNTY REVENUE AUTHORITY OR A PRIVATE ENTITY FOR THE DESIGN, CONSTRUCTION, OPERATION, AND MAINTENANCE OF A PUBLIC SCHOOL UNDER TERMS AGREED TO BY THE PARTIES.

~~**(3) "COUNTY" INCLUDES, UNLESS THE CONTEXT REQUIRES OTHERWISE, A COUNTY REVENUE AUTHORITY.**~~

(b) **(1)** Except when prohibited by local law, in order to finance or to speed delivery of, transfer risks of, or otherwise enhance the delivery of public school construction, a county **BOARD, WITH THE APPROVAL OF THE COUNTY GOVERNING BODY IN ACCORDANCE WITH SUBSECTION (D) OF THIS SECTION,** may:

[(1)**]** **(I)** Use alternative financing methods;

[(2)**]** **(II)** Engage in competitive negotiation, rather than competitive bidding, in limited circumstances, including construction management at–risk arrangements and other alternative project delivery arrangements, as provided in regulations adopted by the ~~Board of Public Works~~ **INTERAGENCY COMMISSION ON SCHOOL CONSTRUCTION**;

[(3)**]** **(III)** Accept unsolicited proposals for the development of public schools in limited circumstances, as provided in regulations adopted by the ~~Board of Public Works~~ **INTERAGENCY COMMISSION ON SCHOOL CONSTRUCTION**; **[**and**]**

(IV) SOLICIT PROPOSALS FOR THE DEVELOPMENT OF PUBLIC SCHOOLS;

(V) LEASE PROPERTY FROM A COUNTY REVENUE AUTHORITY OR A PRIVATE ENTITY FOR USE AS A PUBLIC SCHOOL FACILITY; AND

[(4)**]** **(VI)** Use quality–based selection, in which selection is based on a combination of qualifications and cost factors, to select developers and builders, as provided in regulations adopted by the ~~Board of Public Works~~ **INTERAGENCY COMMISSION ON SCHOOL CONSTRUCTION**.

(2) THE ALTERNATIVE FINANCING METHODS DESCRIBED UNDER PARAGRAPH (1)(I) OF THIS SUBSECTION MAY INCLUDE RESERVES SUFFICIENT TO COVER OPERATION, FACILITY RENEWAL, MAINTENANCE, AND ENERGY COSTS AS PART OF A CONTRACT.

~~(c) The Board of Public Works shall adopt regulations requiring a project that qualifies for alternative financing methods under this section to meet requirements regarding the advantages of the project to the public that include provisions addressing:~~

~~(1) The probable scope, complexity, or urgency of the project;~~

~~(2) Any risk sharing, added value, education enhancements, increase in funding, or economic benefit from the project that would not otherwise be available;~~

~~(3) The public need for the project; and~~

~~(4) The estimated cost or timeliness of executing the project.~~

~~(d) Projects that qualify for alternative financing methods under this subsection:~~

~~(1) Shall meet the educational standards, design standards, and procedural requirements under this article and under regulations adopted by the Board of Public Works; and~~

~~(2) Consistent with the requirements of this article, shall be approved by:~~

~~(i) The county governing body;~~

~~(ii) The State Superintendent of Schools; or~~

~~(iii) The Interagency Committee on School Construction and the Board of Public Works.~~

~~(e)~~ **(C)** Use of alternative financing methods under this section may not be construed to prohibit the allocation of State funds for public school construction to a project under the Public School Construction Program.

~~(f)~~ **(D)** A county board may not use alternative financing methods under this section without the approval of the county governing body.

~~(g) The Board of Public Works shall adopt regulations recommended by the Interagency Committee on School Construction to implement the provisions of this section, including:~~

~~(1) Guidelines for the content of proposals, for the acceptance and evaluation of unsolicited proposals, and for accepting competing unsolicited proposals;~~

~~(2) Requirements for the content and execution of a comprehensive agreement governing an arrangement authorized under this section;~~

~~(3) Guidelines for content and issuance of solicitations;~~

~~(4) Requirements for the prequalification of bidders or offerors;~~

~~(5) Requirements for public notice of solicited and unsolicited proposals and proposed execution of a comprehensive agreement;~~

~~(6) Regulations that require compliance with requirements applicable to qualified projects that would otherwise be in effect under the State procurement law if the procurement were competitively bid; and~~

~~(7) (i) Regulations that require that contracts and subcontracts adhere to the requirements of Title 17, Subtitle 2 and Title 14 of the State Finance and Procurement Article if the requirements would otherwise be applicable; and~~

~~(ii) Regulations that specify elements to be included in any preference–based arrangement adopted by a local governing body that gives preference first to business entities located in the county and then to business entities located in other counties in the State for any construction that is not subject to prevailing wage rates under Title 17, Subtitle 2 of the State Finance and Procurement Article.~~

(E) (1) (I) EXCEPT AS PROVIDED IN PARAGRAPHS (2) AND (3) OF THIS SUBSECTION, § 2–303(F) AND TITLE 5, SUBTITLE 3 OF THIS ARTICLE AND THE REGULATIONS THAT GOVERN THE PUBLIC SCHOOL CONSTRUCTION PROGRAM DO NOT APPLY TO PROJECTS THAT USE ALTERNATIVE FINANCING METHODS UNDER THIS SECTION.

(II) NOTHING IN THIS SECTION MAY BE CONSTRUED TO AUTHORIZE OR REQUIRE STATE APPROVAL BEFORE AN ALTERNATIVE FINANCING METHOD MAY BE USED BY A LOCAL SCHOOL SYSTEM.

(2) IF A PROJECT THAT RECEIVES STATE FUNDING USES ALTERNATIVE FINANCING METHODS UNDER THIS SECTION, THE PROJECT SHALL BE SUBMITTED TO THE INTERAGENCY COMMISSION ON SCHOOL CONSTRUCTION FOR REVIEW.

(3) PROJECTS THAT USE ALTERNATIVE FINANCING METHODS UNDER THIS SECTION AND RECEIVE STATE FUNDING SHALL COMPLY WITH THE FOLLOWING REQUIREMENTS:

(I) THE STATE AND LOCAL COST–SHARE ESTABLISHED FOR EACH COUNTY IN REGULATIONS;

(II) THE MAXIMUM STATE CONSTRUCTION ALLOCATION FOR EACH PROJECT APPROVED FOR STATE FUNDING;

(III) THE APPROVAL OF PROJECT FUNDING BY THE INTERAGENCY COMMISSION;

(IV) SMART GROWTH REQUIREMENTS;

(V) MINORITY BUSINESS ENTERPRISE REQUIREMENTS;

(VI) PREVAILING WAGE REQUIREMENTS;

(VII) ENVIRONMENTAL REQUIREMENTS; AND

(VIII) A REQUIREMENT FOR A PROCUREMENT PROCESS THAT INCLUDES PUBLIC NOTICE AND RESULTS IN THE MOST ADVANTAGEOUS PROPOSAL.

4–134.

(A) EACH COUNTY BOARD SHALL MAKE A DETERMINATION OF THE PUBLIC SCHOOLS WITHIN THE JURISDICTION OF THE COUNTY BOARD THAT SHOULD BE DESIGNATED AS EMERGENCY MANAGEMENT SHELTERS.

(B) THE DETERMINATION OF THE COUNTY BOARD SHALL BE BASED ON:

(1) CONSISTENCY WITH LOCAL EMERGENCY MANAGEMENT PLANS AND CRITERIA; AND

(2) THE AVAILABILITY OF FUNDING.

5–112.

(c) (1) A contract for the school building, improvements, supplies, or other equipment shall be awarded to the **[**lowest**]** responsible bidder who **PROVIDES THE BEST VALUE AND** conforms to specifications with consideration given to:

(i) The quantities involved;

(ii) The time required for delivery;

(iii) The purpose for which required;

(iv) The competency and responsibility of the bidder;

(v) The ability of the bidder to perform satisfactory service; **[**and**]**

(vi) The plan for utilization of minority contractors**; AND**

(VII) THE PRICE OFFERED BY THE BIDDER.

(2) The county board may reject any and all bids and readvertise for other bids.

(H) (1) A COUNTY BOARD IS ENCOURAGED, CONSISTENT WITH COMPETITIVE BIDDING, TO USE BULK PURCHASING, BUNDLING, AND INTERGOVERNMENTAL PURCHASING.

(2) A COUNTY BOARD MAY BUNDLE, FOR APPROVAL AND PROCUREMENT PURPOSES:

(I) SIMILAR SYSTEMIC RENOVATION PROJECTS AT DIFFERENT SCHOOLS; AND

(II) INTERRELATED SYSTEMIC PROJECTS AT A SINGLE SCHOOL.

[(h)**] (I)** A contract entered into or purchase made in violation of this section is void.

5–202.

(d) (2) Except as provided in paragraph (3)(i) of this subsection, for purposes of this subsection, the local appropriation on a per pupil basis for the prior fiscal year for a county is derived by dividing the county's highest local appropriation to its school operating budget for the prior fiscal year by the county's full–time equivalent enrollment for the prior fiscal year. For example, the calculation of the foundation aid for fiscal year 2003 shall be based on the highest local appropriation for the school operating budget for a county for fiscal year 2002. Program shifts between a county operating budget and a county school operating budget may not be used to artificially satisfy the requirements of this paragraph.

(8) (i) The maintenance of effort requirement in paragraph (1)(ii) of this subsection does not apply to a county if the county requests and is granted a waiver from the requirement by the State Board based on:

1. A determination under this paragraph that the county's fiscal condition significantly impedes the county's ability to fund the maintenance of effort requirement;

2. Subject to paragraph (9) of this subsection, an agreement between the county and the county board to reduce recurring costs; **[**or**]**

3. Subject to paragraph (10) of this subsection, a determination that a county's ability to meet the maintenance of effort requirement is permanently impeded**; OR**

4. SUBJECT TO PARAGRAPH (11) OF THIS SUBSECTION, A DETERMINATION THAT LEASE PAYMENTS MADE BY THE COUNTY BOARD TO A COUNTY OR PRIVATE ENTITY HOLDING TITLE TO PROPERTY USED AS A PUBLIC SCHOOL BY A COUNTY BOARD IN ACCORDANCE WITH § 4–114(C)(1) OR (D) OF THIS ARTICLE.

(ii) In order to qualify for a waiver for a fiscal year, a county shall make a request for a waiver to the State Board by the earlier of the seventh day following the end of the legislative regular session or April 20 of the prior fiscal year.

(iii) The State Superintendent shall provide a preliminary assessment of a waiver request to the State Board before a public hearing held in accordance with subparagraph (iv) of this paragraph.

(iv) Before acting on a request for a waiver, the State Board shall hold a public hearing in accordance with regulations adopted by the State Board.

(v) Except as provided in paragraph (9) of this subsection, when considering whether to grant a county's waiver request, the State Board shall consider the following factors:

1. External environmental factors such as a loss of a major employer or industry affecting a county or a broad economic downturn affecting more than one county;

2. A county's tax base;

3. Rate of inflation relative to growth of student population in a county;

4. Maintenance of effort requirement relative to a county's statutory ability to raise revenues;

5. A county's history of exceeding the required maintenance of effort amount under paragraph (1)(ii) of this subsection;

6. An agreement between a county and a county board that a waiver should be granted;

7. Significant reductions in State aid to a county and municipalities of the county for the fiscal year for which a waiver is requested;

8. The number of waivers a county has received in the past 5 years; and

9. The history of compensation adjustments for employees of the county board and county government.

(vi) The State Board shall inform the county whether the waiver for a fiscal year is approved or denied in whole or in part no later than 30 days after receipt of an application or May 20 of the prior fiscal year, whichever is earlier.

(vii) Except as provided in paragraphs (9) and (10) of this subsection, if a county is granted a waiver from the provisions of this subsection by either the State Board or the General Assembly for any fiscal year, the minimum appropriation of local funds required under this subsection for the next fiscal year shall be calculated based on the per pupil local appropriation for the prior fiscal year in which the county met the maintenance of effort requirement under paragraph (1)(ii) of this subsection.

(11) (I) THIS PARAGRAPH APPLIES TO A COUNTY THAT REQUESTS A WAIVER UNDER PARAGRAPH (8)(I)4 OF THIS SUBSECTION.

(II) 1. THE STATE BOARD SHALL GRANT A WAIVER REQUEST IN THE AMOUNT THAT HAS BEEN AGREED ON BY THE COUNTY AND THE COUNTY BOARD THAT IS ATTRIBUTABLE TO THE AMOUNT OF THE LEASE PAYMENT.

2. THE AMOUNT OF THE AGREED–ON WAIVER MAY BE LESS THAN THE ENTIRE AMOUNT OF THE LEASE PAYMENT.

3. THE AMOUNT OF THE AGREED–ON WAIVER MAY NOT:

A. EXCEED THE ENTIRE AMOUNT OF THE LEASE PAYMENT; OR

B. REDUCE A COUNTY'S EDUCATION APPROPRIATION BELOW THE AMOUNT REQUIRED IN PARAGRAPH (1)(I) OF THIS SUBSECTION.

(III) IF THE COUNTY AND COUNTY BOARD HAVE NOT AGREED ON AN AMOUNT, THE STATE BOARD MAY GRANT A WAIVER ON A DETERMINATION THAT THE LEASE PAYMENTS ARE COMPARABLE TO THE AMOUNT OF DEBT SERVICE THAT

WOULD OTHERWISE BE REQUIRED IF THE ALTERNATIVE FINANCING HAD NOT BEEN USED.

(IV) IF THE STATE BOARD GRANTS A WAIVER UNDER THIS PARAGRAPH, THE STATE BOARD SHALL DETERMINE THE NUMBER OF FISCAL YEARS FOR WHICH THE WAIVER IS APPLICABLE AND THE MINIMUM APPROPRIATION OF LOCAL FUNDS REQUIRED UNDER THIS SUBSECTION FOR THE FISCAL YEAR AFTER THE EXPIRATION OF THE WAIVER.

[(11)**] (12)** In making the calculations required under this subsection, the Department shall consult with the Department of Budget and Management and the Department of Legislative Services.

[(12)**] (13)** (i) A county shall submit to the Superintendent the county's approved budget no later than 7 days after approval of the budget or June 30, whichever is earlier.

(ii) No later than 15 days after receipt of the county's approved budget the Superintendent shall certify whether the county has met the funding requirements established under this subsection and shall notify the county and county board of that certification.

[(13)**] (14)** On or before December 31 of each year the Department shall report to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly, on all waiver requests, maintenance of effort calculations made by the Department and the county, the Department's decisions regarding waiver requests, the Department's certification of whether a county has met the requirement, and any other information relating to a county's request for a waiver and the Department's maintenance of effort decisions.

5–301.

~~(a)~~ In this subtitle, "Interagency ~~Committee~~ **COMMISSION**" means the Interagency ~~Committee~~ **COMMISSION** on School Construction established under § 5–302 of this subtitle.

5–302.

(a) **[**(1) The Board of Public Works shall establish the**] THERE IS AN** Interagency **[**Committee**] COMMISSION** on School Construction**.**

(B) THE INTERAGENCY COMMISSION IS AN INDEPENDENT COMMISSION THAT FUNCTIONS [as a unit**]** within the Department **[**for administrative and budgetary purposes**]**.

(C) THE PURPOSE OF THE INTERAGENCY COMMISSION IS TO DEVELOP AND APPROVE POLICIES, PROCEDURES, GUIDELINES, AND REGULATIONS ON STATE SCHOOL CONSTRUCTION ALLOCATIONS TO LOCAL JURISDICTIONS IN AN INDEPENDENT AND MERIT–BASED MANNER.

[(2)**] (D)** The Interagency **[**Committee**] COMMISSION** consists of the following members:

[(i)**] (1)** The State Superintendent of Schools, or the Superintendent's designee;

(2) THE SECRETARY OF PLANNING, OR THE SECRETARY'S DESIGNEE;

(3) THE SECRETARY OF GENERAL SERVICES, OR THE SECRETARY'S DESIGNEE;

(4) TWO MEMBERS OF THE PUBLIC APPOINTED BY THE GOVERNOR;

[(ii)**] (5) [**A member**] TWO MEMBERS** of the public appointed by the President of the Senate; **AND**

[(iii)**] (6) [**A member**] TWO MEMBERS** of the public appointed by the Speaker of the House**[**;

(iv) The Secretary of the Department of Planning, or the Secretary's designee; and

(v) The Secretary of General Services, or the Secretary's designee**]**.

[(3)**] (E)** The **[**State Superintendent of Schools, or the Superintendent's designee,**] GOVERNOR, PRESIDENT OF THE SENATE, AND SPEAKER OF THE HOUSE JOINTLY** shall **[**be the Chairman**] SELECT THE CHAIR** of the Interagency **[**Committee**] COMMISSION**.

[(4)**] (F) [**A**] AN APPOINTED** member of the Interagency **[**Committee on School Construction**] COMMISSION** may not be:

[(i)**] (1)** An individual who is a regulated lobbyist as described in § 5–702(a)(1), (2), (3), or (4) of the General Provisions Article;

[(ii)**] (2)** A **[**member of the General Assembly**] FEDERAL, STATE, OR LOCAL ELECTED OFFICIAL**; ~~**OR**~~

[(iii)**] (3)** An employee of **[**a**] STATE OR** county government or **A COUNTY** board of education**; OR**

(4) AN INDIVIDUAL WHO HAS A BUSINESS INTEREST IN, OR CONTRACTS RELATED TO, SCHOOL CONSTRUCTION IN ANY JURISDICTION IN THE STATE[; or

(iv) A local elected official**]**.

[(5) The Board of Public Works may delegate the administrative and budgetary authority of the Board to the Interagency Committee as determined by the Board to be necessary and appropriate.**]**

(G) AN APPOINTED MEMBER OF THE INTERAGENCY COMMISSION:

(1) MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE COMMISSION; BUT

(2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

[(b) (1) The Department or any other State agency may lend its employees to serve as the staff for the Interagency Committee.

(2) These employees shall be paid by the agency that employs them.

(c) The Executive Director of the Interagency Committee shall be appointed by the Interagency Committee with the approval of the Board of Public Works.**]**

(H) (1) THE INTERAGENCY COMMISSION IS A PUBLIC BODY AND SUBJECT TO TITLE 3 OF THE GENERAL PROVISIONS ARTICLE.

(2) DELIBERATIONS AND DECISIONS REGARDING THE ELIGIBILITY OF PROJECTS AND ALLOCATION OF FUNDING SHALL BE CONSIDERED QUASI–LEGISLATIVE FUNCTIONS FOR THE PURPOSES OF THE OPEN MEETINGS ACT.

(I) (1) THE INTERAGENCY COMMISSION MAY EMPLOY STAFF, INCLUDING CONTRACTUAL STAFF, IN ACCORDANCE WITH THE STATE BUDGET.

(2) THE INTERAGENCY COMMISSION SHALL APPOINT AN EXECUTIVE DIRECTOR OF THE INTERAGENCY COMMISSION.

(3) (I) THE DEPARTMENT OR ANY OTHER STATE AGENCY MAY LEND ITS EMPLOYEES TO SERVE AS THE STAFF FOR THE INTERAGENCY COMMISSION.

(II) THESE EMPLOYEES SHALL BE PAID BY THE AGENCY THAT EMPLOYS THEM.

5–303.

~~(b)~~ **(A)** (1) **(I)** ~~For the purposes of this section other than subsection (c), the Board of Public Works~~ **THE INTERAGENCY COMMISSION** shall define by regulation what constitutes an eligible and ineligible public school construction or capital improvement cost.

(II) IN ORDER FOR THE COST OF AN ITEM OR A SYSTEM FUNDED WITH THE PROCEEDS OF GENERAL OBLIGATION BONDS TO BE CONSIDERED AN ELIGIBLE COST, IT MUST HAVE A MEDIAN USEFUL LIFE OF AT LEAST 15 YEARS.

(2) (i) The ~~Board of Public Works~~ **INTERAGENCY COMMISSION** shall include modular construction as an approved public school construction or capital cost.

(ii) The ~~Board of Public Works, at the recommendation of the Interagency Committee on School Construction~~ **INTERAGENCY COMMISSION**, shall adopt regulations that:

1. Define modular construction; and

2. Establish the minimum specifications required for approval of modular construction as a public school construction or capital improvement cost.

(3) The cost of acquiring land may not be considered a construction or capital improvement cost and may not be paid by the State.

~~(b–1)~~ **(B)** The ~~Board of Public Works~~ **INTERAGENCY COMMISSION**, in consultation with the Department of General Services and the Department of Housing and Community Development, shall adopt regulations establishing criteria designed to enhance indoor air quality for the occupants of relocatable classrooms constructed after July 1, 2014, that are purchased or leased using State or local funds, including specifications that:

(1) Require each unit to include appropriate air barriers to limit infiltration;

(2) Require that each unit be constructed in a manner that provides protection against water damage through the use of proper roofing materials, exterior sheathing, water drainage systems, and flashing;

(3) Require that each unit provide continuous forced ventilation when the unit is occupied;

(4) Require each unit to include a programmable thermostat;

(5) Require each unit to be outfitted with energy efficient lighting and heating and air–conditioning systems; and

(6) Mandate that each unit be constructed with building materials that contain low amounts of volatile organic compounds (VOC) in accordance with industry standards.

(c) The State shall pay the costs in excess of available federal funds of the State share of public school construction projects and public school capital improvements in each county if:

(1) The projects or improvements have been approved by the ~~Board of Public Works~~ **INTERAGENCY COMMISSION**; and

(2) Contracts have been executed on or after July 1, 1971 for the projects or improvements.

(d) (1) The ~~Board of Public Works~~ **INTERAGENCY COMMISSION** may adopt regulations for the administration of the programs provided for in this section.

(2) The regulations adopted by the ~~Board of Public Works~~ **INTERAGENCY COMMISSION** may contain requirements for:

(i) **[**The development and submission of long range plans;

(ii) The submission of annual plans and plans for specific projects;

(iii)**]** The submission of other data or information that is relevant to school construction or capital improvement;

[(iv)**] (II)** The approval of sites, plans, and specifications for the construction of new school buildings or the improvement of existing buildings;

[(v)**] (III)** Site improvements;

[(vi)**] (IV)** Competitive bidding;

[(vii)**] (V)** The hiring of personnel in connection with school construction or capital improvements;

[(viii)**](VI)** The actual construction of school buildings or their improvements;

[(ix)**] (VII)** The relative roles of different State and local governmental agencies in the planning and construction of school buildings or school capital improvements;

[(x)**] (VIII)** School construction and capital improvements necessary or appropriate for the proper implementation of this section;

[(xi)**] (IX)** ~~At the recommendation of the Interagency Committee,~~ the establishment of priority public school construction programs;

[(xii)**](X)** Development of cooperative arrangements that permit the sharing of facilities among two or more school systems;

[(xiii)**] (XI)** The selection of architects and engineers by school systems;

[(xiv)**] (XII)** The award of contracts by school systems; and

[(xv)**] (XIII)** Method of payments made by the State under the Public School Construction Program.

(3) The regulations adopted by the ~~Board of Public Works~~ **INTERAGENCY COMMISSION** shall contain provisions:

(i) Establishing a State and local cost–share formula for each county that identifies the factors used in establishing the formulas;

(ii) Requiring local education agencies to adopt educational facilities master plans and annual capital improvement programs;

(iii) Providing a method for establishing a maximum State construction allocation for each project approved for State funding;

(iv) Referencing the policies stated in § 5–7B–07 of the State Finance and Procurement Article;

(v) Requiring local school systems to adopt procedures consistent with the minority business enterprise policies of the State as required under the Code of Maryland Regulations;

(vi) Establishing a process for ~~the~~ appeal of **INTERAGENCY COMMISSION** decisions ~~by the Interagency Committee to the Board of Public Works~~;

(vii) Requiring local education agencies to adopt, implement, and periodically update comprehensive maintenance plans **AND PREVENTATIVE MAINTENANCE PLANS**; **[**and**]**

(viii) Authorizing the ~~Board of Public Works~~ **INTERAGENCY COMMISSION** to withhold State public school construction funds from a local education agency that fails to comply with the requirements of item (vii) of this paragraph**;**

(IX) REQUIRING THE DEVELOPMENT AND SUBMISSION OF LONG–RANGE PLANS, INCLUDING A REQUIREMENT FOR THE ANNUAL SUBMISSION OF A 10–YEAR EDUCATIONAL FACILITIES MASTER PLAN; AND

(X) REQUIRING THE SUBMISSION OF AN ANNUAL CAPITAL IMPROVEMENT ~~PLAN~~ PROGRAM, WHICH MAY ONLY BE REQUIRED TO INCLUDE PLANS FOR SPECIFIC PROJECTS AND REQUESTS FOR PLANNING AND CONSTRUCTION PROJECTS FOR THE UPCOMING FISCAL YEAR.

(4) In adopting any of these requirements, the State Board and the ~~Board of Public Works~~ **INTERAGENCY COMMISSION** shall provide for the maximum exercise of initiative by school personnel in each county to ensure that the school buildings and improvements meet both the needs of the local communities and the rules and regulations necessary to ensure the proper operation of this section and the prudent expenditure of State funds.

(e) The ~~Board of Public Works~~ **INTERAGENCY COMMISSION** shall develop the rules, regulations, and procedures authorized by this section in consultation with representatives of the county boards and the county governing bodies.

(f) The regulations and procedures of the ~~Board of Public Works~~ **INTERAGENCY COMMISSION** adopted under this section and their promulgation are exempt from § 8–127(b) of the State Finance and Procurement Article.

(g) (1) With respect to public school construction or public school capital improvements, including sites for school buildings, the authority, responsibilities, powers, and duties of the following are subject to the regulations adopted by the ~~Board of Public Works~~ **INTERAGENCY COMMISSION** under this section:

(i) The State Board;

(ii) The State Superintendent;

(iii) The county governments;

(iv) The county boards; and

(v) All other State or local governmental agencies under this article.

(2) If, as to public school construction or public school capital improvements, there is any conflict between the regulations and procedures of the ~~Board~~

~~of Public Works~~ **INTERAGENCY COMMISSION** and the authority, responsibilities, powers, and duties of the individuals and agencies specified in paragraph (1) of this subsection, the regulations and procedures of the ~~Board of Public Works~~ **INTERAGENCY COMMISSION** shall prevail.

(h) **(1)** The obligation of the State to pay the costs of public school construction and public school capital improvements extends only to those projects or parts of projects that comply with the regulations and procedures of the ~~Board of Public Works~~ **INTERAGENCY COMMISSION**.

(2) THE INTERAGENCY COMMISSION MAY NOT PARTIALLY FUND AN ELIGIBLE SCHOOL CONSTRUCTION PROJECT FOR A SYSTEMIC RENOVATION UNLESS THE LOCAL EDUCATION AGENCY HAS REQUESTED PARTIAL FUNDING.

(i) (1) This subsection does not apply to the proceeds from the sale, lease, or disposition of public school buildings constructed under contracts executed before February 1, 1971.

(2) Consistent with § 4–115 of this article and regulations adopted by the ~~Board of Public Works~~ **INTERAGENCY COMMISSION** to implement § 4–126 of this article, the ~~Board of Public Works~~ **INTERAGENCY COMMISSION** may require by regulation that the portion of the proceeds received by a county from the sale, lease, or disposal of any public school building that represent State funds provided within 15 years prior to the date of the transaction shall be used solely as part of the State funding of the construction of future public school buildings in the county in which the sale, lease, or disposal occurred, if the public school building was constructed under a contract executed on or after February 1, 1971.

(3) The part of the proceeds from the sale, lease, or disposal of a public school building that fairly represents the appraised value of land and that part of the cost of the public school building that was funded by the county shall remain as the funds of the county.

(4) A transfer of interest in a public school building in connection with a financing of the cost of construction and improvements to such buildings is not a sale, lease, or disposal of the public school facility.

(j) (1) Whether by budget bill or supplementary appropriation bill, all money appropriated to carry out the purposes of this section is a separate fund that shall be administered by the State Comptroller in accordance with the regulations adopted by the ~~Board of Public Works~~ **INTERAGENCY COMMISSION**.

(2) Subject to paragraph (3) of this subsection, any unexpended allocations of funds for previously approved projects shall be transferred to the fund established under paragraph (1) of this subsection.

(3) (i) Any funds approved for a county for a project that has not been contracted for within 2 years of the approval of the project, shall be:

1. Available for another eligible project in the county in the current fiscal year; or

2. Reserved for eligible projects in the county in the next fiscal year, in addition to the new funds allocated for eligible projects in the county in the next fiscal year**, AND MAY NOT SUPPLANT NEW FUNDS ALLOCATED IN THE NEXT FISCAL YEAR OR IN LATER FISCAL YEARS**.

(ii) Any funds reserved under subparagraph (i)2 of this paragraph that have not been used to contract for a project within 2 years of the date the funds were reserved shall be available for allocation to an eligible project in any county.

(4) On or before March 30, June 30, September 30, and December 31 of each year, the Interagency ~~Committee~~ **COMMISSION** shall report to the General Assembly, in accordance with § 2–1246 of the State Government Article, and the Department of Legislative Services on the balance in the fund as of the reporting date as the result of transfers or reversions required under this subsection and any expenditures.

~~5–301.3.~~

~~(A) IN THIS SECTION, "NET–ZERO" MEANS THAT THE TOTAL AMOUNT OF ENERGY USED BY A BUILDING ON AN ANNUAL BASIS IS EQUAL TO OR LESS THAN THE AMOUNT OF RENEWABLE ENERGY CREATED ON THE SITE.~~

~~(B) THE INTERAGENCY COMMITTEE SHALL ESTABLISH INCENTIVES FOR:~~

~~(1) THE CONSTRUCTION OF NET–ZERO SCHOOL BUILDINGS; AND~~

~~(2) THE USE OF ENERGY EFFICIENT OR OTHER PREFERRED MATERIALS IN PUBLIC SCHOOL CONSTRUCTION.~~

~~(C) BEFORE THE INTERAGENCY COMMITTEE MAY PROVIDE ANY INCENTIVES ESTABLISHED IN ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION, THE INTERAGENCY COMMITTEE SHALL:~~

~~(1) NOTIFY THE BUDGET COMMITTEES OF THE GENERAL ASSEMBLY IN WRITING OF THE PROPOSED INCENTIVES; AND~~

~~(2) ALLOW THE BUDGET COMMITTEES 30 DAYS TO REVIEW AND COMMENT ON THE PROPOSED INCENTIVES.~~

~~5–302.~~

~~(a) (1) The Board of Public Works shall establish the Interagency Committee on School Construction as a unit within the Department for administrative and budgetary purposes.~~

~~(2) The Interagency Committee consists of the following members:~~

~~(i) The State Superintendent of Schools, or the Superintendent's designee;~~

~~(ii) A member of the public appointed by the President of the Senate;~~

~~(iii) A member of the public appointed by the Speaker of the House;~~

~~(iv) The Secretary of the Department of Planning, or the Secretary's designee; and~~

~~(v) The Secretary of General Services, or the Secretary's designee.~~

~~(3) The State Superintendent of Schools, or the Superintendent's designee, shall be the Chairman of the Interagency Committee.~~

~~(4) A member of the Interagency Committee on School Construction may not be:~~

~~(i) An individual who is a regulated lobbyist as described in § 5–702(a)(1), (2), (3), or (4) of the General Provisions Article;~~

~~(ii) A member of the General Assembly;~~

~~(iii) An employee of a county government or board of education; or~~

~~(iv) A local elected official.~~

~~(5) The Board of Public Works may delegate the administrative and budgetary authority of the Board to the Interagency Committee as determined by the Board to be necessary and appropriate.~~

~~(b) (1) The Department or any other State agency may lend its employees to serve as the staff for the Interagency Committee.~~

~~(2) These employees shall be paid by the agency that employs them.~~

~~(c) The Executive Director of the Interagency Committee shall be appointed by the Interagency Committee with the approval of the Board of Public Works.~~

5–304.

~~(d)~~ **(A)** (1) (i) The Interagency ~~Committee~~ **COMMISSION** shall prepare projections of school construction and capital improvement needs for submission to the Capital Debt Affordability Committee under § 8–112(c)(3) of the State Finance and Procurement Article.

(ii) The projections shall be prepared in accordance with the regulations adopted by the ~~Board~~ **INTERAGENCY COMMISSION** under ~~§ 5–301~~ **§ 5–303** of this subtitle.

(2) (i) The ~~Board of Public Works or the Interagency Committee~~ **INTERAGENCY COMMISSION** shall notify each county board and each local governing body of the annual allocation of school construction funds recommended ~~to the Board of Public Works~~ by the Governor under ~~the consolidated capital debt program~~ **§ 8–113** of the State Finance and Procurement Article.

(ii) The notification shall be made immediately after the Governor has recommended the allocations so that each county may structure its respective school construction and capital improvement priorities in accordance with the annual allocation and any amendments.

~~(e)~~ **(B)** (1) Before May 1 of each year, the ~~Board of Public Works~~ **INTERAGENCY COMMISSION** may not approve public school construction projects that comprise more than 75% of the preliminary school construction allocation, determined under § 8–113 of the State Finance and Procurement Article, for the following fiscal year.

(2) On or before December 31 of each year, the Interagency ~~Committee~~ **COMMISSION** shall ~~provide recommendations to the Board of Public Works for~~ **APPROVE** public school construction projects that comprise 75% of the preliminary school construction allocation, determined under § 8–113 of the State Finance and Procurement Article, for the following fiscal year.

(3) THE INTERAGENCY COMMISSION SHALL ESTABLISH AN APPEAL PROCESS TO ALLOW LOCAL JURISDICTIONS TO REQUEST FUNDING FOR PROJECTS THAT WERE NOT APPROVED BY THE INTERAGENCY COMMISSION UNDER PARAGRAPH (2) OF THIS SUBSECTION.

~~(3)~~ **(4)** On or before March 1 of each year, the Interagency ~~Committee~~ **COMMISSION** shall provide recommendations to ~~the Board of Public Works,~~ the presiding officers and the budget committees of the General Assembly~~,~~ and the Department of Legislative Services for public school construction projects that comprise 90% of the school construction allocation included in the capital budget submitted by the Governor for the following fiscal year.

~~(4) The remaining public school construction allocation for the following fiscal year may be allocated by the Board of Public Works as provided in regulation.~~

~~(f) (1) The Interagency Committee on School Construction is a public body and subject to Title 3 of the General Provisions Article.~~

~~(2) Deliberations and decisions regarding the eligibility of projects and allocation of funding shall be considered quasi–legislative functions for the purposes of the Open Meetings Law.~~

(5) ON OR AFTER MAY 1 EACH YEAR, THE INTERAGENCY COMMISSION SHALL APPROVE 100% OF THE SCHOOL CONSTRUCTION ALLOCATION INCLUDED IN THE CAPITAL BUDGET BILL AS ENACTED.

(C) THE FOLLOWING ACTIONS BY THE INTERAGENCY COMMISSION ARE FINAL AND ARE NOT SUBJECT TO ADDITIONAL APPEALS OR APPROVALS BY ANOTHER UNIT OF THE EXECUTIVE BRANCH OF STATE GOVERNMENT:

(1) A DECISION MADE BY THE INTERAGENCY COMMISSION UNDER THE APPEAL PROCESS ESTABLISHED BY THE INTERAGENCY COMMISSION; AND

(2) THE APPROVAL OF PUBLIC SCHOOL CONSTRUCTION PROJECTS UNDER THIS SUBTITLE.

~~(G)~~ (D) THE INTERAGENCY ~~COMMITTEE~~ COMMISSION SHALL ALLOW ANY DOCUMENTS OR DATA REQUIRED BY THE INTERAGENCY ~~COMMITTEE~~ COMMISSION FROM ANY SOURCE, INCLUDING LOCAL EDUCATION AGENCIES AND STATE AGENCIES, TO BE SUBMITTED ELECTRONICALLY TO THE INTERAGENCY ~~COMMITTEE~~ COMMISSION.

~~(H)~~ (E) THE INTERAGENCY ~~COMMITTEE~~ COMMISSION SHALL BE A CENTRAL REPOSITORY FOR INFORMATION ON:

(1) THE USE OF PRE–FAB AND BUILDING SYSTEM OPTIONS;

(2) PROCUREMENT METHODS;

(3) SCHOOL FACILITY DESIGN AND CONSTRUCTION; AND

(4) BEST PRACTICES IN SCHOOL CONSTRUCTION.

~~(I)~~ (F) IN CONSULTATION WITH ~~THE SCHOOL CONSTRUCTION TECHNICAL AND INNOVATIVE ASSISTANCE OFFICE IN~~ THE MARYLAND STADIUM AUTHORITY, THE INTERAGENCY ~~COMMITTEE~~ COMMISSION SHALL:

(1) PROVIDE TECHNICAL ASSISTANCE AND SUPPORT TO LOCAL EDUCATION AGENCIES ON THE USE OF ALTERNATIVE FINANCING AND ALTERNATIVE PROJECT DELIVERY METHODS FOR SCHOOL CONSTRUCTION;

(2) DEVELOP A PUBLIC–PRIVATE PARTNERSHIP PILOT PROGRAM THAT:

(I) PROVIDES FINANCIAL ASSISTANCE THAT SHALL BE SUPPLEMENTAL TO AND MAY NOT TAKE THE PLACE OF FUNDING THAT WOULD OTHERWISE BE APPROPRIATED FOR SCHOOL CONSTRUCTION TO ASSIST LOCAL EDUCATION AGENCIES INTERESTED IN PURSUING ALTERNATIVE FINANCING TO COVER THE COST OF ASSOCIATED RISKS; AND

(II) REQUIRES LOCAL EDUCATION AGENCIES THAT USE ALTERNATIVE FINANCING TO FULLY DOCUMENT THE PROCESS, EXPECTATIONS, AND RESULTS;

(3) PROVIDE TECHNICAL SUPPORT FOR AGREEMENTS BETWEEN AND AMONG LOCAL EDUCATION AGENCIES AND COUNTY GOVERNING BODIES, INCLUDING REGIONAL PARTNERSHIPS, TO PROMOTE EFFICIENCY;

(4) UTILIZE AND PROMOTE TECHNOLOGICAL ADVANCES TO MAKE SCHOOL BUILDING DESIGN MORE EFFICIENT AND INNOVATIVE; AND

(5) UTILIZE AND PROMOTE TECHNOLOGY TO STREAMLINE COMPLIANCE REVIEW AND PROJECT DELIVERIES.

~~(J)~~ (G) THE INTERAGENCY ~~COMMITTEE~~ COMMISSION SHALL WORK WITH A LOCAL EDUCATION AGENCY WITH DECLINING ENROLLMENT TO IDENTIFY BUILDINGS FOR CONSOLIDATION OR FIND ALTERNATIVE USES FOR UNDERUTILIZED SCHOOL BUILDINGS, SUBJECT TO THE APPROVAL OF THE COUNTY BOARD.

5–307.

(a) The Interagency **[**Committee on Public School Construction**]** **COMMISSION** shall assist the Prince George's County Board of Education in developing an education facility master plan that encourages and supports the neighborhood school concept to improve the quality of education for all students in Prince George's County.

5–309.

(A) It is the intent of the General Assembly that the Department and the Public School Construction Program encourage local education agencies to reuse recently used school designs, when educationally appropriate and cost effective over the useful life of the project, within each county and across local school system boundaries.

(B) (1) THE INTERAGENCY ~~COMMITTEE~~ COMMISSION ON SCHOOL CONSTRUCTION SHALL DEVELOP AND PROVIDE INCENTIVES FOR LOCAL EDUCATION AGENCIES TO USE PROTOTYPE SCHOOL DESIGNS.

(2) THE INCENTIVES TO USE PROTOTYPE SCHOOL DESIGNS MAY INCLUDE EXPEDITED STATE REVIEW OF PROJECTS.

(C) (1) IN THIS SUBSECTION, "NET–ZERO" MEANS THAT THE TOTAL AMOUNT OF ENERGY USED BY A BUILDING ON AN ANNUAL BASIS IS EQUAL TO OR LESS THAN THE AMOUNT OF RENEWABLE ENERGY CREATED ON THE SITE.

(2) THE INTERAGENCY COMMISSION SHALL ESTABLISH INCENTIVES FOR:

(I) THE CONSTRUCTION OF NET–ZERO SCHOOL BUILDINGS; AND

(II) THE USE OF ENERGY EFFICIENT OR OTHER PREFERRED MATERIALS IN PUBLIC SCHOOL CONSTRUCTION.

(D) THE INCENTIVES ESTABLISHED UNDER SUBSECTIONS (B) AND (C) OF THIS SECTION SHALL BE SUPPLEMENTAL TO AND ARE NOT INTENDED TO TAKE THE PLACE OF FUNDING THAT OTHERWISE WOULD BE APPROPRIATED TO LOCAL EDUCATION AGENCIES FOR SCHOOL CONSTRUCTION.

~~(C)~~ (E) BEFORE THE INTERAGENCY ~~COMMITTEE~~ COMMISSION MAY PROVIDE ANY INCENTIVES ESTABLISHED IN ACCORDANCE WITH ~~SUBSECTION (B)~~ SUBSECTION (B) OR (C) OF THIS SECTION, THE INTERAGENCY ~~COMMITTEE~~ COMMISSION SHALL:

(1) NOTIFY THE BUDGET COMMITTEES OF THE GENERAL ASSEMBLY IN WRITING OF THE PROPOSED INCENTIVES; AND

(2) ALLOW THE BUDGET COMMITTEES 30 DAYS TO REVIEW AND COMMENT ON THE PROPOSED INCENTIVES.

5–310.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) "EDUCATIONAL FACILITIES SUFFICIENCY STANDARDS" MEANS A UNIFORM SET OF CRITERIA AND MEASURES FOR EVALUATING THE PHYSICAL

~~CONDITION~~ ATTRIBUTES AND EDUCATIONAL SUITABILITY OF PUBLIC ELEMENTARY AND SECONDARY SCHOOL FACILITIES IN THE STATE.

(3) "FACILITY CONDITION INDEX" MEANS A CALCULATION TO DETERMINE THE RELATIVE PHYSICAL CONDITION OF PUBLIC SCHOOL FACILITIES BY DIVIDING THE TOTAL REPAIR COST OF A FACILITY BY THE TOTAL REPLACEMENT COST OF A FACILITY.

[(a)] (B) (1) Each fiscal year, the Interagency ~~Committee~~ COMMISSION shall survey the condition of school buildings identified by the Department.

[(b)] (2) The [Department of General Services] INTERAGENCY ~~COMMITTEE~~ COMMISSION shall conduct the inspections of individual school buildings that [the Interagency Committee requires] ARE NECESSARY to complete the survey required in PARAGRAPH (1) OF THIS subsection [(a) of this section].

[(c)] (3) The Interagency ~~Committee~~ COMMISSION shall report to the Governor and the General Assembly, on or before October 1 of each year, in accordance with § 2–1246 of the State Government Article, on the results of the survey for the prior fiscal year.

(C) ON OR BEFORE JULY 1, 2018, IN CONSULTATION WITH LOCAL EDUCATION AGENCIES, THE INTERAGENCY ~~COMMITTEE~~ COMMISSION ON SCHOOL CONSTRUCTION SHALL ADOPT EDUCATIONAL FACILITIES SUFFICIENCY STANDARDS AND~~, IN ACCORDANCE WITH SUBSECTION (D) OF THIS SECTION, A MARYLAND SCHOOL FACILITY INDEX~~ A FACILITY CONDITION INDEX FOR MARYLAND PUBLIC SCHOOLS.

~~(D) THE EDUCATIONAL FACILITIES SUFFICIENCY STANDARDS AND THE FACILITY CONDITION INDEX SHALL BE WEIGHTED TO ADDRESS THE FUNCTIONAL RELEVANCY OF SPECIFIC FACILITY DEFICIENCIES, AS DETERMINED BY THE INTERAGENCY COMMITTEE COMMISSION, TO CREATE THE MARYLAND SCHOOL FACILITY INDEX.~~

(D) (1) THE PURPOSE OF THE EDUCATIONAL FACILITIES SUFFICIENCY STANDARDS IS TO ESTABLISH UNIFORM STANDARDS FOR THE ASSESSMENT OF THE PHYSICAL ATTRIBUTES, CAPACITY, AND EDUCATIONAL SUITABILITY OF PUBLIC SCHOOL FACILITIES IN MARYLAND.

(2) THE STANDARDS SHALL INCLUDE AT LEAST THE FOLLOWING CATEGORIES:

(I) BUILDING CONDITION RELATED TO LIFE SAFETY AND HEALTH;

(II) BUILDING SYSTEMS;

(III) BUILDING CAPACITY AND UTILIZATION, INCLUDING THE ABILITY TO HOUSE STUDENTS IN PERMANENT SPACE;

(IV) ACADEMIC SPACE, INCLUDING SPECIALTY CLASSROOM SPACE; AND

(V) PHYSICAL EDUCATION AND OUTDOOR RECREATIONAL SPACE.

(3) THE INTERAGENCY COMMISSION SHALL PERIODICALLY REVIEW AND UPDATE THE EDUCATIONAL FACILITIES SUFFICIENCY STANDARDS.

(E) (1) ON OR BEFORE JULY 1, 2019, THE INTERAGENCY ~~COMMITTEE~~ COMMISSION SHALL COMPLETE AN INITIAL STATEWIDE FACILITIES ASSESSMENT USING THE EDUCATIONAL FACILITIES SUFFICIENCY STANDARDS ADOPTED UNDER ~~SUBSECTION (C)~~ SUBSECTIONS (C) AND (D) OF THIS SECTION.

(2) IN COMPLETING THE ASSESSMENT THE INTERAGENCY ~~COMMITTEE~~ COMMISSION SHALL:

(I) INCORPORATE THE ~~MARYLAND SCHOOL FACILITY INDEX ESTABLISHED IN~~ FACILITY CONDITION INDEX ADOPTED UNDER SUBSECTION ~~(D)~~ (C) OF THIS SECTION;

(II) CONTRACT WITH AN INDEPENDENT THIRD–PARTY VENDOR TO CONDUCT DATA COLLECTION AND ASSESSMENT;

(III) UTILIZE, TO THE EXTENT POSSIBLE, EXISTING DATA SOURCES, INCLUDING THE EDUCATIONAL FACILITIES MASTER PLAN AND THE MARYLAND ASSOCIATION OF BOARDS OF EDUCATION; AND

(IV) COORDINATE WITH LOCAL EDUCATION AGENCIES TO IDENTIFY DATA ELEMENTS TO BE USED IN THE FACILITY ASSESSMENT.

(F) (1) FOLLOWING THE COMPLETION OF THE INITIAL STATEWIDE FACILITIES ASSESSMENT, THE INTERAGENCY ~~COMMITTEE~~ COMMISSION SHALL DEVELOP STANDARDS AND PROCEDURES TO COMPREHENSIVELY UPDATE THE FACILITIES ASSESSMENT SUCH THAT FACILITY ASSESSMENT DATA IS NOT OLDER THAN 4 YEARS.

(2) LOCAL EDUCATION AGENCIES SHALL:

(I) ~~FOLLOW THE STANDARDS DEVELOPED IN PARAGRAPH (1) OF THIS SUBSECTION~~ COOPERATE WITH THE INTERAGENCY COMMISSION TO UPDATE THE FACILITY ASSESSMENT; AND

(II) CONTRIBUTE DATA ~~ANNUALLY~~ AS REQUESTED TO ~~REGULARLY AND~~ ~~COMPREHENSIVELY~~ UPDATE THE ASSESSMENT.

~~(3) THE INTERAGENCY COMMITTEE SHALL COMPARE THE DATA FROM THE INITIAL STATEWIDE FACILITIES ASSESSMENT TO THE DATA SUBMITTED BY LOCAL EDUCATION AGENCIES UNDER PARAGRAPH (2)(II) OF THIS SUBSECTION.~~

~~(4)~~ (3) (I) THE INTERAGENCY ~~COMMITTEE~~ COMMISSION SHALL ENTER THE FACILITY ASSESSMENT DATA INTO AN INTEGRATED DATA SYSTEM, WHICH SHALL BE KNOWN AS THE INTEGRATED MASTER FACILITY ASSET LIBRARY.

(II) THE INTERAGENCY ~~COMMITTEE~~ COMMISSION SHALL MANAGE THE INTEGRATED MASTER FACILITY ASSET LIBRARY AND SHALL PROVIDE ACCESS TO THE LIBRARY FOR ALL LOCAL EDUCATION AGENCIES USING A CLOUD–BASED SYSTEM.

(G) (1) AFTER COMPLETION OF THE INITIAL FACILITY ASSESSMENT, ~~AND ANNUALLY THEREAFTER,~~ THE INTERAGENCY ~~COMMITTEE~~ COMMISSION SHALL ~~DETERMINE A RANKING OF EACH PUBLIC ELEMENTARY AND SECONDARY SCHOOL FACILITY USING THE MARYLAND SCHOOL FACILITY INDEX ESTABLISHED IN SUBSECTION (D) OF THIS SECTION~~ SHARE THE DATA RESULTS WITH THE WORKGROUP ON THE ASSESSMENT AND FUNDING OF SCHOOL FACILITIES AND, WITH THE WORKGROUP, SHALL CONSIDER:

(I) HOW THE RELATIVE CONDITION OF PUBLIC SCHOOL FACILITIES WITHIN THE EDUCATIONAL FACILITIES SUFFICIENCY STANDARDS AND THE FACILITY CONDITION INDEX SHOULD BE PRIORITIZED, TAKING INTO ACCOUNT LOCAL PRIORITIES AND IN CONSULTATION WITH LOCAL JURISDICTIONS; AND

(II) IF DETERMINED TO BE APPROPRIATE, USE OF THE ASSESSMENT RESULTS IN FUNDING DECISIONS.

(2) BASED ON THE RECOMMENDATIONS OF THE WORKGROUP ON THE ASSESSMENT AND FUNDING OF SCHOOL FACILITIES, AND NOT BEFORE MAY 1, 2020, FOR USE IN FUNDING DECISIONS BEGINNING NO SOONER THAN FISCAL YEAR 2021, THE INTERAGENCY COMMISSION SHALL ADOPT REGULATIONS ESTABLISHING THE USE OF THE FACILITY ASSESSMENT RESULTS IN ANNUAL SCHOOL CONSTRUCTION FUNDING DECISIONS.

(H) (1) ~~EACH~~ EXCEPT AS PROVIDED IN § 5–314(E) OF THIS SUBTITLE, EACH COUNTY BOARD SHALL DEVELOP AND ADOPT PREVENTATIVE MAINTENANCE SCHEDULES BASED ON INDUSTRY STANDARDS FOR THE PUBLIC SCHOOL FACILITIES WITHIN THE JURISDICTION OF THE COUNTY BOARD.

~~(2) A COUNTY BOARD'S PREVENTATIVE MAINTENANCE SCHEDULE SHALL BE:~~

~~(I) BASED ON INDUSTRY STANDARDS; AND~~

~~(II) SUBJECT TO REVIEW AND APPROVAL BY THE INTERAGENCY COMMITTEE.~~

~~(3)~~ (2) ON OR BEFORE JULY 1 EACH YEAR, EACH COUNTY BOARD SHALL REPORT TO THE INTERAGENCY ~~COMMITTEE~~ COMMISSION ON THE BOARD'S COMPLIANCE WITH THE PREVENTATIVE MAINTENANCE SCHEDULES ADOPTED UNDER THIS SUBSECTION.

~~(4)~~ (3) THE INFORMATION REPORTED IN ACCORDANCE WITH PARAGRAPH ~~(3)~~ (2) OF THIS SUBSECTION SHALL BE ENTERED INTO THE INTEGRATED MASTER FACILITY ASSET LIBRARY.

5–312.

(a) In this section, "high performance building" has the meaning stated in § 3–602.1 of the State Finance and Procurement Article.

(b) This section applies to the construction of new schools that have not initiated a Request For Proposal for the selection of an architectural and engineering consultant on or before July 1, 2009.

(c) Except as provided in subsection (d) of this section, a new school that receives State public school construction funds shall be constructed to be a high performance building.

(d) (1) The **[**Board of Public Works**]** **INTERAGENCY COMMISSION** shall establish a process to allow a school system to obtain a waiver from complying with subsection (c) of this section.

(2) The waiver process shall:

(i) Include a review by the Interagency **[**Committee**]** **COMMISSION** to determine if the construction of a high performance building is not practicable; and

(ii) Require the approval of a waiver by the Interagency **[**Committee**]** **COMMISSION**.

(e) For fiscal years 2010 through 2014 only, the State shall pay 50% of the local share of the extra costs, identified and approved by the Interagency **[**Committee**]** **COMMISSION**, that are incurred in constructing a new school to meet the high performance building requirements of this section.

(f) The **[**Board of Public Works**]** **INTERAGENCY COMMISSION** shall adopt regulations to implement the requirements of this section.

5–314.

(A) ~~THE~~ NOTWITHSTANDING § 2–303(F) OF THIS ARTICLE, THE PROCESS FOR THE REVIEW AND APPROVAL OF PUBLIC SCHOOL CONSTRUCTION PROJECTS SHALL BE IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION.

(B) (1) ~~EDUCATIONAL~~ EXCEPT AS PROVIDED IN SUBSECTION (E) OF THIS SECTION, EDUCATIONAL SPECIFICATIONS AND SCHEMATIC DESIGNS FOR MAJOR CONSTRUCTION PROJECTS ARE REQUIRED TO ~~BE~~:

(I) ~~REVIEWED~~ BE REVIEWED BY THE ~~DEPARTMENT~~ INTERAGENCY COMMISSION; AND

~~(II) APPROVED BY THE INTERAGENCY COMMITTEE~~ COMMISSION.

(II) PRIOR TO FINALIZATION BY A LOCAL EDUCATION AGENCY, HAVE ANY CONCERNS OR RECOMMENDATIONS OF THE INTERAGENCY COMMISSION SATISFACTORILY RESOLVED.

(2) TO PROVIDE EFFICIENCY WITHIN THE PROCESS, THE DEPARTMENT AND THE INTERAGENCY ~~COMMITTEE~~ COMMISSION SHALL CONSIDER ALTERING THE REVIEW AND APPROVAL PROCESS REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION, INCLUDING A ROLLING DEADLINE FOR SUBMISSION OF DOCUMENTS, WITH SCHEMATIC DESIGNS SUBMITTED FOLLOWING THE COMPLETION OF THE EDUCATIONAL SPECIFICATIONS REVIEW.

(C) (1) CHANGE ORDERS FOR MAJOR CONSTRUCTION PROJECTS AND SYSTEMIC RENOVATION PROJECTS MAY NOT BE:

(I) REVIEWED BY THE DEPARTMENT OF GENERAL SERVICES; AND

(II) APPROVED BY THE INTERAGENCY ~~COMMITTEE~~ COMMISSION.

(2) A PERCENTAGE OF THE STATE ALLOCATION RELATED TO CHANGE ORDERS MAY NOT BE WITHHELD.

(3) LOCAL EDUCATION AGENCIES SHALL MAINTAIN CONTINGENCY FUNDS FOR EACH APPROVED PROJECT TO ADDRESS UNANTICIPATED CONSTRUCTION COSTS ABOVE THE STATE ALLOCATION.

(D) (1) EXCEPT AS PROVIDED IN SUBSECTION (E) OF THIS SECTION, DESIGN AND CONSTRUCTION DOCUMENTS FOR MAJOR CONSTRUCTION PROJECTS AND SYSTEMIC RENOVATION PROJECTS ARE REQUIRED TO BE:

(I) REVIEWED BY THE DEPARTMENT OF GENERAL SERVICES; AND

(II) APPROVED BY THE INTERAGENCY ~~COMMITTEE~~ COMMISSION.

(2) THE DEPARTMENT OF GENERAL SERVICES AND THE INTERAGENCY ~~COMMITTEE~~ COMMISSION, IN CONSULTATION WITH LOCAL EDUCATION AGENCIES, SHALL DEVELOP A TIMELINE FOR SUBMISSION, REVIEW, AND APPROVAL OF DESIGN AND CONSTRUCTION DOCUMENTS.

(E) (1) THE PROVISIONS OF ~~SUBSECTION (D)~~ SUBSECTIONS (B) AND (D) OF THIS SECTION AND § 5–310(H) OF THIS SUBTITLE DO NOT APPLY TO A LOCAL EDUCATION AGENCY THAT SUCCESSFULLY COMPLETES A CERTIFICATION PROCESS THAT MEETS THE REQUIREMENTS OF THIS SUBSECTION.

(2) SUBJECT TO THE REVIEW AND APPROVAL OF THE INTERAGENCY ~~COMMITTEE~~ COMMISSION, THE DEPARTMENT OF GENERAL SERVICES SHALL DEVELOP A CERTIFICATION PROCESS THROUGH WHICH A LOCAL EDUCATION AGENCY IS ABLE TO DEMONSTRATE THE EXPERTISE AND CAPACITY TO COMPLETE THE REVIEW OF EDUCATIONAL SPECIFICATIONS, SCHEMATIC DESIGNS, DESIGN AND CONSTRUCTION DOCUMENTS, OR PREVENTATIVE MAINTENANCE SCHEDULE COMPLIANCE WITHIN THE COUNTY.

(3) THE CERTIFICATION PROCESS DEVELOPED BY THE DEPARTMENT OF GENERAL SERVICES SHALL PROVIDE FOR A RENEWABLE, ~~MULTIYEAR~~ 5–YEAR CERTIFICATION FOR A LOCAL EDUCATION AGENCY THAT SUCCESSFULLY COMPLETES THE CERTIFICATION PROCESS.

(F) SCHOOL CONSTRUCTION PROJECTS THAT ARE FUNDED ENTIRELY WITH LOCAL FUNDS ARE NOT REQUIRED TO BE REVIEWED BY THE DEPARTMENT UNLESS THE PROJECT SUBSTANTIALLY ALTERS OR EXPANDS AN EXISTING SCHOOL BUILDING THAT WAS BUILT IN PART WITH STATE FUNDS.

(G) IF THERE IS ANY CONFLICT BETWEEN THE PROVISIONS OF THIS SECTION AND THE REGULATIONS AND PROCEDURES OF ~~THE BOARD OF PUBLIC WORKS,~~ THE INTERAGENCY ~~COMMITTEE~~ COMMISSION, THE DEPARTMENT, OR THE DEPARTMENT OF GENERAL SERVICES, THE PROVISIONS OF THIS SECTION SHALL PREVAIL.

5–315.

(A) IN THIS SECTION, "FUND" MEANS THE LOCAL SHARE OF SCHOOL CONSTRUCTION COSTS REVOLVING LOAN FUND.

(B) THERE IS A LOCAL SHARE OF SCHOOL CONSTRUCTION COSTS REVOLVING LOAN FUND.

(C) THE PURPOSE OF THE FUND IS TO PROVIDE LOANS TO LOCAL GOVERNMENTS TO FORWARD FUND THE LOCAL SHARE OF SCHOOL CONSTRUCTION COSTS FOR LOCAL EDUCATION AGENCIES THAT RELY ON THE LOCAL SHARE TO BE FULLY FUNDED IN ORDER TO COMPLETE A PROJECT.

(D) THE INTERAGENCY ~~COMMITTEE~~ COMMISSION SHALL ADMINISTER THE FUND.

(E) (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT TO § 7–302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE THAT SHALL BE AVAILABLE IN PERPETUITY FOR THE PURPOSE OF PROVIDING LOANS IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION.

(2) THE STATE TREASURER SHALL HOLD THE FUND SEPARATELY, AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.

(F) THE FUND CONSISTS OF:

(1) MONEY APPROPRIATED IN THE STATE BUDGET TO THE FUND;

(2) ANY INTEREST EARNINGS OF THE FUND;

(3) REPAYMENTS OF PRINCIPAL AND INTEREST FROM LOANS MADE FROM THE FUND; AND

(4) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR THE BENEFIT OF THE FUND.

(G) THE FUND MAY BE USED ONLY TO PROVIDE LOW– OR NO–INTEREST LOANS TO LOCAL GOVERNMENTS.

(H) (1) THE STATE TREASURER SHALL INVEST THE MONEY OF THE FUND IN THE SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.

(2) ANY INTEREST EARNINGS OF THE FUND SHALL BE CREDITED TO THE FUND.

(I) MONEY EXPENDED FROM THE FUND IS SUPPLEMENTAL TO AND IS NOT INTENDED TO TAKE THE PLACE OF FUNDING THAT OTHERWISE WOULD BE APPROPRIATED TO LOCAL GOVERNMENTS FOR SCHOOL CONSTRUCTION.

(J) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE INTERAGENCY ~~COMMITTEE~~ COMMISSION SHALL ESTABLISH APPLICATION PROCEDURES AND ELIGIBILITY CRITERIA FOR LOANS FROM THE FUND.

(2) THE ELIGIBILITY CRITERIA SHALL INCLUDE THAT A LOCAL GOVERNMENT IS:

(I) IN NEED OF A LOAN TO FORWARD FUND THE LOCAL SHARE OF SCHOOL CONSTRUCTION COSTS IN ORDER TO COMPLETE A PROJECT; AND

(II) ABLE TO DEMONSTRATE THE ABILITY TO REPAY THE LOAN IF REQUIRED AT A LATER DATE.

5–316.

AS DIRECTED BY THE INTERAGENCY COMMISSION, THE STATE TREASURER SHALL SUPERVISE THE DISTRIBUTION OF ANY MONEY THAT THE GENERAL ASSEMBLY APPROPRIATES FOR PUBLIC SCHOOL CONSTRUCTION FOR:

(1) BUILDINGS;

(2) EQUIPMENT;

(3) NEW CONSTRUCTION; OR

(4) ANY OTHER CAPITAL EXPENDITURE.

5–317.

(A) IN THIS SECTION, "PROGRAM" MEANS THE SCHOOL SAFETY GRANT PROGRAM.

(B) (1) THERE IS A SCHOOL SAFETY GRANT PROGRAM.

(2) THE PURPOSE OF THE PROGRAM IS TO PROVIDE GRANTS TO COUNTY BOARDS FOR SCHOOL SECURITY IMPROVEMENTS, INCLUDING:

(I) SECURE AND LOCKABLE CLASSROOM DOORS FOR EACH CLASSROOM IN THE SCHOOL;

(II) AN AREA OF SAFE REFUGE IN EACH CLASSROOM IN THE SCHOOL; AND

(III) SURVEILLANCE AND OTHER SECURITY TECHNOLOGY FOR SCHOOL MONITORING PURPOSES.

(C) THE PROGRAM SHALL BE IMPLEMENTED AND ADMINISTERED BY THE INTERAGENCY COMMISSION, IN CONSULTATION WITH THE MARYLAND CENTER FOR SCHOOL SAFETY.

(D) THE INTERAGENCY COMMISSION SHALL:

(1) PROVIDE GRANTS TO COUNTY BOARDS FOR PUBLIC SCHOOL SECURITY IMPROVEMENTS;

(2) DEVELOP A PROCEDURE FOR A COUNTY BOARD TO APPLY FOR A GRANT UNDER THE PROGRAM; AND

(3) DEVELOP ELIGIBILITY REQUIREMENTS FOR A COUNTY BOARD TO RECEIVE A GRANT UNDER THE PROGRAM.

(E) IN ADDITION TO THE ANNUAL AMOUNT OTHERWISE PROVIDED IN THE CAPITAL IMPROVEMENT PROGRAM OF THE PUBLIC SCHOOL CONSTRUCTION PROGRAM, THE GOVERNOR SHALL PROVIDE AN ADDITIONAL $10,000,000 IN THE ANNUAL OPERATING OR CAPITAL BUDGET BILL THAT MAY BE USED ONLY TO AWARD GRANTS UNDER THE PROGRAM.

(F) THE STATE FUNDING PROVIDED UNDER THE PROGRAM IS SUPPLEMENTAL TO AND IS NOT INTENDED TO TAKE THE PLACE OF FUNDING THAT WOULD OTHERWISE BE APPROPRIATED FOR PUBLIC SCHOOL CONSTRUCTION PURPOSES TO A COUNTY BOARD FROM ANY OTHER SOURCE.

(G) THE INTERAGENCY COMMISSION SHALL ADOPT REGULATIONS NECESSARY TO IMPLEMENT THIS SECTION.

[5–301.1.**] 5–318.**

(a) (1) There is a solar energy pilot program to promote the use of solar energy systems to generate electricity in public school buildings in the State.

(2) The pilot program shall be implemented and administered by the Interagency **[**Committee on School Construction**] COMMISSION** and shall operate as provided in this section.

(b) The Interagency **[**Committee**] COMMISSION** shall:

(1) Encourage all local boards in the State to study, design, and construct or renovate school buildings that are energy efficient and use solar energy systems to generate electricity to meet some of the school building's electrical energy needs, electrical energy demand, or a combination of the electrical energy needs and electrical energy demand;

(2) Provide grants out of State funds dedicated for this program to local boards to assist in implementing the use of solar energy systems at existing public schools or in new or renovated school building projects; and

(3) Develop a procedure for a local board to apply for a grant in accordance with subsection (c) of this section.

(c) (1) A local board may apply to the Interagency **[**Committee**] COMMISSION** for a grant to cover 90% of the cost to purchase and install a solar energy system to generate a portion of the school building's electrical energy needs or electrical energy demand.

(2) A local board that receives a grant under this subsection shall pay:

(i) 10% of the cost to purchase and install the solar energy system; and

(ii) All architectural or engineering fees for the design and supervision of the installation of the solar energy system.

(3) The Interagency **[**Committee**] COMMISSION** may award a grant under this section for a solar energy system project **[**with the approval of the Board of Public Works**]**.

(d) Local school systems are encouraged to seek private funding to implement the pilot program.

(e) The total savings of electrical energy needs and electrical energy demand costs that result from the installation and use of solar energy systems under this section shall remain with the local school system.

(f) (1) The Interagency **[**Committee**]** **COMMISSION** and the Maryland Energy Administration shall cooperate with, assist, provide technical assistance to, and advise school systems to identify appropriate existing public school buildings and public school construction projects that would benefit from the installation of solar energy systems.

(2) The Interagency **[**Committee**]** **COMMISSION** shall adopt procedures necessary to implement this section.

[5–301.2.**]** **5–319.**

(a) The **[**Board of Public Works**]** **INTERAGENCY COMMISSION** shall adopt regulations that require the design development documents for the construction or major renovation of school buildings submitted by a county board to the Interagency **[**Committee**]** **COMMISSION** to include:

(1) An evaluation of the use of solar technologies, including photovoltaic or solar water heating, based on life cycle costs; and

(2) If an evaluation determines that solar technologies are not appropriate for a construction or major renovation project, a report that explains why the use of the technology is not appropriate.

(b) On or before December 31 of each year, the Interagency **[**Committee**]** **COMMISSION** shall submit a report on the number of public school construction and major renovation projects in each jurisdiction that use solar technologies to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly.

[5–303.**]** **5–320.**

(a) (1) For the purposes of this section, replacement cost shall be determined by the product of the area of a building that is over 40 years old times the current cost per square foot of building construction which may not include:

(i) Specialized costs of demolition;

(ii) Site development;

(iii) The fees of architects and engineers; or

(iv) Air conditioning.

(2) All existing area that is not at least 40 years old shall be excluded from this calculation.

(b) If a county board finds, after preparing feasibility and life cycle cost studies, that it is appropriate and economically beneficial to renovate an existing school building that, in whole or part, has been in continuous educational use for 40 years or more and the cost of the proposed renovation work is not more than the replacement cost of the building or part of a building of the same area and purpose, the Interagency **[**Committee on School Construction and the Board of Public Works**]** **COMMISSION** shall consider a request for State funding on the basis of these findings.

(c) Before it is considered for funding, the project shall be:

(1) Justified as to need and continued purpose; and

(2) Included in an annual capital improvement program that has been approved by the Interagency **[**Committee on School Construction and the Board of Public Works**]** **COMMISSION**.

[5–304.**]** **5–321.**

(a) The indebtedness of a county may not be considered to be increased by the receipt of money by a county from participation in the General Public School Construction Loan of 1956 or any similar act.

(b) A county may not be required to levy ad valorem taxes on its taxable basis for the purpose of repaying to the State any money received by the county as a result of these acts during the calendar year 1958 or after or the interest or carrying charges with respect to this money.

(c) All money received by a county during the calendar year 1958 or after because of the participation of the county in the General Public School Construction Loan of 1956 or any similar act shall be deducted from the funds due the county under the applicable provisions of State law that relate to the:

(1) Income tax;

(2) Tax on racing;

(3) Recordation tax;

(4) Tax on amusements;

(5) License tax; and

(6) School building construction aid program under **[**§ 5–301(c)**]** **§ 5–303(C)** of this subtitle, provided that money may not be deducted for any general public school construction loans that no longer require repayment by the county under **[**§ 5–301(c)**]** **§ 5–303(C)** of this subtitle.

(d) All obligations in connection with funds received by a county from the General Public School Construction Loan of 1956 or any similar act are self–liquidating obligations, incurred for self–liquidating projects within the meaning of those terms as used in any charter or public general or public local law of this State.

(e) Any law that is inconsistent with the provisions of this section is repealed to the extent of the inconsistency.

8–315.

(a) Notwithstanding § 4–114 of this article and subject to regulations adopted by the **[**Board of Public Works**]** **INTERAGENCY COMMISSION ON SCHOOL CONSTRUCTION**, for fiscal years 2013 through 2028, the Maryland School for the Blind shall be eligible for funding under the Public School Construction Program in accordance with Title 5, Subtitle 3 of this article.

(b) The **[**Board of Public Works**]** **INTERAGENCY COMMISSION ON SCHOOL CONSTRUCTION** shall adopt regulations for funding school construction and school capital improvements at the Maryland School for the Blind in accordance with the requirements set forth in Title 5, Subtitle 3 of this article that apply to school construction and school capital improvement projects funded for county boards of education.

Article – State Finance and Procurement

4–809.

(a) There is a Maryland Green Building Council.

(f) The Maryland Green Building Council shall:

(1) evaluate current high performance building technologies;

(2) provide recommendations concerning the most cost–effective green building technologies that the State might consider requiring in the construction of State facilities, including consideration of the additional cost associated with the various technologies;

(3) provide recommendations concerning how to expand green building in the State;

(4) develop a list of building types for which green building technologies should not be applied, taking into consideration the operational aspects of facilities evaluated, and the utility of a waiver process where appropriate; **[**and**]**

(5) establish a process for receiving public input**; AND**

(6) DEVELOP GUIDELINES FOR NEW PUBLIC SCHOOL BUILDINGS TO ACHIEVE THE EQUIVALENT OF THE CURRENT VERSION OF THE U.S. GREEN BUILDING COUNCIL'S LEED (LEADERSHIP IN ENERGY AND ENVIRONMENTAL DESIGN) GREEN BUILDING RATING SYSTEM SILVER RATING OR A COMPARABLE RATING SYSTEM OR BUILDING CODE AS AUTHORIZED IN § 3–601.1 OF THIS ARTICLE WITHOUT REQUIRING ~~LEED CERTIFICATION OF THE SCHOOL BUILDINGS, INCLUDING~~ AN INDEPENDENT CERTIFICATION THAT THE BUILDINGS HAVE ACHIEVED THE REQUIRED STANDARDS.

5–7B–07.

(a) It shall be the policy of the State that the emphasis of funding for public school construction projects shall be to target the rehabilitation of existing schools to ensure that facilities in established neighborhoods are of equal quality to new schools.

(b) This section may not be construed to prohibit the provision of school construction funding outside a priority funding area.

(c) The **[**Public School Interagency Committee**]** **INTERAGENCY COMMISSION** on School Construction shall **[**continue to**]** review and **[**make recommendations on**]** **APPROVE** school funding projects **[**to the Board of Public Works**]**.

6–226.

(a) (2) (i) Notwithstanding any other provision of law, and unless inconsistent with a federal law, grant agreement, or other federal requirement or with the terms of a gift or settlement agreement, net interest on all State money allocated by the State Treasurer under this section to special funds or accounts, and otherwise entitled to receive interest earnings, as accounted for by the Comptroller, shall accrue to the General Fund of the State.

(ii) The provisions of subparagraph (i) of this paragraph do not apply to the following funds:

101. the Advance Directive Program Fund; **[**and**]**

102. the Make Office Vacancies Extinct Matching Fund**; AND**

103. THE LOCAL SHARE OF SCHOOL CONSTRUCTION COSTS REVOLVING LOAN FUND.

7–326.

(a) In this section, "Fund" means the Public School Construction Fund.

(e) Subject to the approval of the **[**Board of Public Works**]** **INTERAGENCY COMMISSION ON SCHOOL CONSTRUCTION**, money credited to the Fund shall be used only for public school construction projects and public school capital improvements consistent with the provisions of Title 5, Subtitle 3 of the Education Article.

8–301.

(a) Except as provided in subsection (b) of this section or in other law, a contract to spend the proceeds of a general obligation loan that has been authorized by any act of the General Assembly may not be executed until the Board of Public Works approves the contract.

(b) **(1)** Approval by the Board of Public Works is not required if the act merely authorizes a county or municipal corporation to borrow money and no State funds are involved.

(2) APPROVAL BY THE BOARD OF PUBLIC WORKS IS NOT REQUIRED FOR A CONTRACT OR OTHER AUTHORIZATION TO SPEND THE PROCEEDS OF A GENERAL OBLIGATION LOAN FOR PUBLIC SCHOOL CONSTRUCTION PROJECTS.

12–202.

(a) This section does not apply to capital expenditures**:**

(1) FOR PUBLIC SCHOOL CONSTRUCTION UNDER TITLE 5, SUBTITLE 3 OF THE EDUCATION ARTICLE; OR

(2) by the Department of Transportation or the Maryland Transportation Authority, in connection with State roads, bridges, or highways.

(g) The Board shall supervise the expenditure of any money that the General Assembly appropriates for:

(1) buildings;

(2) equipment;

(3) new construction; or

(4) any other capital expenditure.

Article – Economic Development

10–645.

(l) On October 1, 2013, and each January 15 thereafter, the Authority, Baltimore City, the Baltimore City Board of School Commissioners, and the Interagency **[**Committee**]** **COMMISSION** on School Construction jointly shall report to the Governor, the Board of Public Works and, in accordance with § 2–1246 of the State Government Article, the fiscal committees of the General Assembly, on the progress of replacements, renovations, and maintenance of Baltimore City public school facilities, including actions:

(1) taken during the previous fiscal year; and

(2) planned for the current fiscal year.

10–646.

(a) Before any bonds are issued to finance improvements to a Baltimore City public school facility:

(1) a four–party memorandum of understanding that meets the requirements of this section shall be entered into and signed by the Authority, Baltimore City, the Baltimore City Board of School Commissioners, and the Interagency **[**Committee**]** **COMMISSION** on School Construction; and

(2) the Baltimore City Board of School Commissioners shall submit a long–term educational facilities master plan to the Joint Audit Committee and the budget committees, in accordance with § 2–1246 of the State Government Article.

(d) (1) The memorandum of understanding shall authorize the Authority to design and improve, or contract for the design and improvement of, a Baltimore City public school facility.

(2) The authority granted to the Authority under paragraph (1) of this subsection is subject to the rights and responsibilities of the Interagency **[**Committee**]** **COMMISSION** on School Construction for the design and construction of a Baltimore City public school facility.

(e) The memorandum of understanding shall require:

(1) specific parameters regarding the roles, rights, and responsibilities of each party with respect to the process for and management of program development, scheduling, budgeting, procurement, design, construction administration, capital equipping, and maintenance of improvements to a Baltimore City public school facility;

(2) specific parameters regarding the authority of the Baltimore City Board of School Commissioners over educational programs and issues relating to the Baltimore City Public Schools' 10–Year Plan, including educational specifications, feasibility studies, and design elements of educational buildings, which shall provide that at the completion of schematic design, all parties shall agree to project scope, schedule, and budget;

(3) specific parameters for a review and comment period for any proposed amendments to the Baltimore City Public Schools' 10–Year Plan, as referenced in § 10–645(a) of this subtitle;

(4) specific procedures related to the role of the Interagency **[**Committee**]** **COMMISSION** on School Construction related to improvements to a Baltimore City public school facility financed under this subtitle, which shall provide for efficiencies in cost, schedules, and processes;

(5) a process for determining which planned projects for improvements to Baltimore City public school facilities will proceed as planned or will be postponed or canceled;

(6) a pledge by Baltimore City, subject to annual appropriation, to deposit the following into the Baltimore City Public School Construction Financing Fund:

(i) all revenues and receipts from the beverage container tax imposed by Baltimore City Ordinance No. 12–45, enacted June 26, 2012; and

(ii) 10% of the participation rent paid to Baltimore City by the operator of the video lottery facility located in Baltimore City;

(7) a partnership between the Baltimore City Board of School Commissioners, the Baltimore City Department of Planning, Housing, Recreation, and Parks, and the Mayor of Baltimore City to coordinate new investment in Baltimore City public school facilities with the community development goals of Baltimore City;

(8) a plan for any new or substantially renovated Baltimore City public school facilities to be available for recreational opportunities for the community;

(9) a plan to present all architectural plans for all major renovation and new public school construction buildings and sites to the Baltimore City Planning Department's Urban Design and Architectural Review Panel for schematic and final design review;

(10) a process developed and agreed to by Baltimore City and the Baltimore City Board of School Commissioners to expedite the closure of public school buildings as provided in the Baltimore City Public Schools' 10–Year Plan approved on January 8, 2013, and to arrange for the productive use of the closed buildings through the surplus process;

(11) a plan developed by the Baltimore City Board of School Commissioners and approved by the Interagency **[**Committee**]** **COMMISSION** on School Construction for preventative and ongoing maintenance for existing, new, and renovated Baltimore City public school facilities, including funding sufficient to implement the plan;

(12) a plan developed by the Baltimore City Board of School Commissioners and approved by the Interagency **[**Committee**]** **COMMISSION** on School Construction providing for minimum school utilization standards;

(13) the creation of a "Stat" program for the Baltimore City Public Schools' 10–Year Plan;

(14) specific parameters for Baltimore City public school facilities financed under this subtitle regarding:

(i) property management, maintenance plans and standards, annual inspections, and property insurance; and

(ii) any claims, losses, or damages arising from the Authority's improvement of any Baltimore City public school facility;

(15) a process to resolve disputes and revise the memorandum of understanding, if necessary; and

(16) an allocation of the public school improvements to be undertaken by the Authority and the Baltimore City Board of School Commissioners, respectively.

~~**10–610.1.**~~

~~**(A) THERE IS A SCHOOL CONSTRUCTION TECHNICAL AND INNOVATIVE ASSISTANCE OFFICE IN THE AUTHORITY.**~~

~~**(B) THE PURPOSE OF THE OFFICE IS TO:**~~

~~**(1) PROVIDE TECHNICAL ASSISTANCE ON PUBLIC SCHOOL CONSTRUCTION PROJECTS, INCLUDING PROJECT SCOPE, PROJECT DELIVERY METHOD, AND RESEARCH–BASED BEST PRACTICES IN ALL AREAS OF SCHOOL DESIGN AND CONSTRUCTION; AND**~~

~~**(2) EXPLORE AND PROMOTE EFFICIENT, EFFECTIVE, ECONOMICAL, AND INNOVATIVE WAYS TO CONSTRUCT PUBLIC SCHOOL FACILITIES IN THE STATE.**~~

~~**(C) TO CARRY OUT THE PURPOSES OF THIS SECTION, IN CONSULTATION WITH THE INTERAGENCY COMMITTEE ON SCHOOL CONSTRUCTION, THE OFFICE MAY:**~~

~~**(1) FACILITATE THE USE OF ALTERNATIVE FINANCING METHODS FOR SCHOOL CONSTRUCTION BY:**~~

~~**(I) PROVIDING TECHNICAL ASSISTANCE TO LOCAL EDUCATION AGENCIES THAT ARE INTERESTED IN PURSUING ALTERNATIVE FINANCING METHODS FOR SCHOOL CONSTRUCTION;**~~

~~**(II) DEVELOPING TEMPLATE LEASE AGREEMENTS BETWEEN DEVELOPERS AND LOCAL EDUCATION AGENCIES; AND**~~

~~**(III) EXPLORING THE FINANCIAL INCENTIVES THAT MAY ENCOURAGE LOCAL EDUCATION AGENCIES TO PURSUE ALTERNATIVE FINANCING METHODS FOR SCHOOL CONSTRUCTION; AND**~~

~~**(2) PERFORM ANY OTHER ACT NECESSARY.**~~

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) It is the intent of the General Assembly that the State should provide at least $345 million for public school construction in fiscal year 2019.

(b) (1) It is the intent of the General Assembly that, as soon as practicable and within the current debt affordability guidelines, the State should provide at least $400 million each year for public school construction.

(2) The $400 million annual goal may be phased in over several years if fiscal constraints prevent the State from fully funding the goal in one fiscal year.

(c) The annual goal established under subsection (b) of this section should be recalculated after the initial school facility assessment required by § 5–310(e) of the Education Article is completed and the Workgroup on the Assessment and Funding of School Facilities established under Section 3 of this Act reports its findings and recommendations.

SECTION 3. AND BE IT FURTHER ENACTED, That:

(a) There is a Workgroup on the Assessment and Funding of School Facilities.

(b) The Workgroup consists of the following members:

(1) two members of the Senate of Maryland, appointed by the President of the Senate;

(2) two members of the House of Delegates, appointed by the Speaker of the House;

(3) the State Superintendent of Schools;

(4) the State Treasurer, or the State Treasurer's designee;

(5) one representative of the Maryland Association of Counties, appointed by the Maryland Association of Counties;

(6) one representative of the Maryland Association of Boards of Education, appointed by the Executive Director of the Association; and

(7) one representative of the Public School Superintendents Association of Maryland, appointed by the Executive Director of the Association.

(c) The State Superintendent of Schools shall chair the Workgroup.

(d) The Interagency ~~Committee~~ Commission on School Construction and the Department of Legislative Services shall provide staff for the Workgroup.

(e) A member of the Workgroup:

(1) may not receive compensation as a member of the Workgroup; but

(2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(f) (1) After the initial school facility assessment required by § 5–310(e) of the Education Article is completed, the Workgroup shall:

(i) consider how the relative condition of public school facilities within the educational facilities sufficiency standards and the facility condition index should be prioritized, taking into account local priorities and in consultation with local jurisdictions, including whether the prioritization should be by category and by local jurisdiction or statewide;

(ii) determine whether the results should be incorporated into school construction funding decisions~~.~~; and

~~(2)~~ (iii) ~~If~~ if the Workgroup determines that the assessment results should be incorporated into school construction funding decisions, ~~the Workgroup shall~~ determine how the assessment results should be incorporated into school construction funding.

(2) The Workgroup shall also consider whether the State should provide funding incentives for local jurisdictions that reduce the total cost of ownership of public school facilities.

(g) On or before December 1, 2019, the Workgroup shall report its findings and recommendations to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly.

SECTION 4. AND BE IT FURTHER ENACTED, That the Interagency ~~Committee~~ Commission on School Construction shall:

(1) update the State and local cost–share formula every 2 years; and

(2) adopt a common definition of local pay–as–you–go funding so that all local jurisdictions are reporting comparable data to be included in the local debt calculation used to determine the State share.

SECTION 5. AND BE IT FURTHER ENACTED, That:

(a) (1) The Interagency ~~Committee~~ Commission on School Construction shall explore the feasibility of regional school construction projects, including regional public–private partnership zones and regional career and technical education high schools.

(2) Additionally, the Interagency ~~Committee~~ Commission on School Construction shall develop mechanisms and incentives to provide State funding for regional school construction projects.

(b) On or before July 1, 2018, the Interagency ~~Committee~~ Commission on School Construction shall report on the feasibility and financing of regional school construction projects to the Commission on Innovation and Excellence in Education.

~~SECTION 6. AND BE IT FURTHER ENACTED, That:~~

~~(a) The Interagency Committee Commission on School Construction shall review the public school construction and capital improvement costs that are eligible and ineligible for State funding, including:~~

~~(1) whether to make project design costs eligible for State funding;~~

~~(2) whether to reduce or eliminate State support for systemic renovations to focus available resources on major construction projects; and~~

~~(3) whether a system or an item that has not exceeded its median useful life may be eligible for State funding under certain circumstances, such as the system or item has failed despite a documented record of preventative maintenance or the system or item is no longer supported by the manufacturer.~~

~~(b) On or before July 1, 2019, the Interagency Committee Commission on School Construction shall report on its review of eligible and ineligible costs to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly.~~

SECTION ~~7.~~ 6. AND BE IT FURTHER ENACTED, That:

(a) There is a Workgroup on Educational Development Specifications.

(b) The Workgroup consists of relevant stakeholders selected by the Interagency ~~Committee~~ Commission on School Construction, which shall include:

(1) two members of the Senate of Maryland, appointed by the President of the Senate;

(2) two members of the House of Delegates, appointed by the Speaker of the House;

(3) local education agency facility designers and planners; and

(4) other members with expertise in school design and construction.

(c) The Executive Director of the Interagency ~~Committee~~ Commission on School Construction shall chair the Workgroup.

(d) The Interagency ~~Committee~~ Commission on School Construction shall provide staff for the Workgroup.

(e) A member of the Workgroup:

(1) may not receive compensation as a member of the Workgroup; but

(2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(f) The Workgroup shall:

(1) review the square footage allocations that are currently used to calculate the State maximum allowable square footage for a project to identify any overly restrictive requirements and to determine if alternative methodologies or allocation could result in more efficient use of space in school buildings;

(2) review the Maryland State Department of Education school design standards and guidelines to ensure that the standards and guidelines:

(i) are aligned with the space allowance for each type of space, such as health suites, classrooms, and community use areas; and

(ii) are not overly specific;

(3) examine the use of regional cost–per–square–foot figures in the State allowable cost–per–square–foot figures that are established annually, which would reflect the different construction and labor markets in regions of the State; ~~and~~

(4) review the State Rated Capacity process; and

(5) review the cost per student of school construction projects for new or replacement schools and major renovations of existing school facilities and examine the differences in cost per student by type of school across local jurisdictions.

(g) The Workgroup shall make recommendations regarding:

(1) the square footage allocations that should be used to calculate the State maximum allowable square footage allocations, including recommendations on community use space in schools, especially in community schools and in schools with a high proportion of students eligible for free and reduced–price meals;

(2) the Maryland State Department of Education school design standards and guidelines;

(3) the use of regional cost–per–square–foot figures in the State allowable cost–per–square–foot figures; ~~and~~

(4) updates to the State Rated Capacity process, including any updates necessary to address special programs and adjacent schools; and

(5) options for increasing the State share of eligible school construction costs for projects with lower than average cost per student for each type of school.

(h) On or before July 1, 2019, the Workgroup shall report its findings and recommendations to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly.

SECTION ~~8.~~ 7. AND BE IT FURTHER ENACTED, That:

(a) The Interagency ~~Committee~~ Commission on School Construction shall examine the effect of prevailing wage requirements on school construction costs, including in:

(1) different regions of the State; and

(2) counties with different State and local cost–share percentages.

(b) On or before July 1, 2020, the Interagency ~~Committee~~ Commission on School Construction shall report on its examination of the effect of prevailing wage requirements on school construction costs to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly.

SECTION 8. AND BE IT FURTHER ENACTED, That the regulations regarding the Public School Construction Program that were adopted before June 1, 2018, by the Board of Public Works that do not conflict with the provisions of this Act continue to be in force and effect unless otherwise altered by the Interagency Commission on School Construction.

SECTION 9. AND BE IT FURTHER ENACTED, That, as provided in this Act:

(a) The Interagency Commission on School Construction is the successor of the Interagency Committee on School Construction.

(b) In every law, executive order, rule, regulation, policy, or document created by an official, an employee, or a unit of this State, the names and titles of those agencies and officials mean the names and titles of the successor agency or official.

SECTION 10. AND BE IT FURTHER ENACTED, That any transaction or employment status affected by or flowing from any change of nomenclature or any statute amended by this Act and validly entered into or existing before the effective date of this Act and every right, duty, or interest flowing from a statute amended by this Act remains valid after the effective date of this Act and may be terminated, completed, consummated, or enforced as required or allowed by any statute amended by this Act as though the amendment had not occurred. If a change in nomenclature involves a change in name or designation of any State unit, the successor unit shall be considered in all respects as having the powers and obligations granted the former unit.

SECTION 11. AND BE IT FURTHER ENACTED, That:

(1) the continuity of every commission, office, department, agency, or other unit is retained; and

(2) the personnel, records, files, furniture, fixtures, and other properties and all appropriations, credits, assets, liabilities, and obligations of each retained unit are continued as the personnel, records, files, furniture, fixtures, properties, appropriations, credits, assets, liabilities, and obligations of the unit under the laws enacted by this Act.

SECTION 12. AND BE IT FURTHER ENACTED, That the publisher of the Annotated Code of Maryland, in consultation with and subject to the approval of the Department of Legislative Services, shall correct, with no further action required by the General Assembly, cross–references and terminology rendered incorrect by this Act. The publisher shall adequately describe any such correction in an editor's note following the section affected.

SECTION ~~9.~~ 13. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2018.