

By: The Speaker

Introduced and read first time: February 23, 1996
Assigned to: Commerce and Government Matters

Committee Report: Favorable with amendments
House action: Adopted with floor amendments
Read second time: March 21, 1996

CHAPTER ____

1 AN ACT concerning

2 **Council on Management and Productivity**

3 FOR the purpose of establishing a Council on Management and Productivity in the
4 Department of Budget and Fiscal Planning; specifying the duties of the Council;
5 repealing certain authorization for the Efficiency 2000 Commission; providing for
6 the membership, selection of a chairman, quorum, terms, and reimbursement of
7 members of the Council; providing for the annual budget of the Council; providing
8 a certain immunity from liability for the State and the Council; requiring the
9 Council to submit a certain annual report; providing for the termination of the
10 existence of the Council by a certain date; specifying a rule of construction for this
11 Act; defining a certain term; and generally relating to the establishment of a
12 Council on Management and Productivity.

13 BY repealing and reenacting, with amendments,
14 Article - State Government
15 Section 9-1801 through ~~9-1808~~ 9-1809, 9-1811, and 9-1812
16 Annotated Code of Maryland
17 (1995 Replacement Volume)

18 By repealing
19 Article - State Government
20 Section ~~9-1809~~ and 9-1810
21 Annotated Code of Maryland
22 (1995 Replacement Volume)

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

2

1 **Article - State Government**

2 9-1801.

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

4 (b) ["Commission"] "COUNCIL" means the [Efficiency 2000 Commission]
5 COUNCIL ON MANAGEMENT AND PRODUCTIVITY.

6 (c) (1) "Governmental unit" means a permanent instrumentality in the
7 Executive, Legislative, or Judicial Branch of State government.

8 (2) "Governmental unit" includes a department, board, commission, agency,
9 or a subunit in the Executive, Legislative, or Judicial Branch of State government and
10 those county-funded State entities specified in Article 24, § 8-101 of the Code.

11 9-1802.

12 (a) This subtitle may not be construed to authorize the [Commission]COUNCIL
13 to exercise regulatory authority.

14 (b) Consistent with its [accountability and] reporting obligations under [§§
15 9-1810 and] § 9-1812 of this subtitle, the authority of the [Commission] COUNCIL is
16 advisory only.

17 9-1803.

18 [(a)] There is [an Efficiency 2000 Commission] A COUNCIL ON MANAGEMENT
19 AND PRODUCTIVITY IN THE DEPARTMENT OF BUDGET AND FISCAL PLANNING.

20 [(b) The Commission is an independent unit in the State government.]

21 9-1804.

22 The [Commission] COUNCIL consists of:

23 [(1) two representatives of the Executive Branch, appointed by the
24 Governor;

25 (2) two members of the Senate of Maryland, one of whom shall befrom the
26 minority party, appointed by the President of the Senate;

27 (3) two members of the House of Delegates, one of whom shall befrom the
28 minority party, appointed by the Speaker of the House;

29 (4) two representatives of the Judicial Branch, appointed by the Chief Judge
30 of the Maryland Court of Appeals;

31 (5) seven representatives of the business community, three appointed by the
32 Governor, two appointed by the President of the Senate of Maryland, andtwo appointed
33 by the Speaker of the House of Delegates;

34 (6) one representative of organized labor, appointed by the Governor;

35 (7) one representative of a labor organization representing State employees,
36 appointed by the Governor;

3

1 (8) two individuals from the State's Higher Education Academic
2 Community, appointed by the Governor;

3 (9) two individuals with experience in local government, one appointed by
4 the Maryland Association of Counties and one appointed by the Maryland Municipal
5 League; and

6 (10) four representatives from the general public, two appointed by the
7 Governor, one appointed by the President of the Senate of Maryland, and one appointed
8 by the Speaker of the House of Delegates.]

9 (1) THIRTEEN INDIVIDUALS, INCLUDING REPRESENTATIVES OF LABOR,
10 LOCAL GOVERNMENT, AND NONPROFIT ORGANIZATIONS, WHO SHALL BE
11 APPOINTED BY AND SERVE AT THE PLEASURE OF THE GOVERNOR;

12 (2) TWO MEMBERS OF THE SENATE OF MARYLAND, APPOINTED BY THE
13 PRESIDENT OF THE SENATE;

14 (3) TWO MEMBERS OF THE HOUSE OF DELEGATES, APPOINTED BY THE
15 SPEAKER OF THE HOUSE;

16 (4) TWO REPRESENTATIVES OF THE JUDICIAL BRANCH, APPOINTED BY
17 THE CHIEF JUDGE OF THE MARYLAND COURT OF APPEALS;

18 (5) TWO REPRESENTATIVES OF THE BUSINESS COMMUNITY:

19 (I) ONE APPOINTED BY THE PRESIDENT OF THE SENATE OF
20 MARYLAND; AND

21 (II) ONE APPOINTED BY THE SPEAKER OF THE HOUSE OF
22 DELEGATES; AND

23 (6) FOUR REPRESENTATIVES FROM THE GENERAL PUBLIC:

24 (I) TWO APPOINTED BY THE PRESIDENT OF THE SENATE OF
25 MARYLAND; AND

26 (II) TWO APPOINTED BY THE SPEAKER OF THE HOUSE OF
27 DELEGATES.

28 9-1805.

29 (a) (1) The [Commission] GOVERNOR shall:

30 (1) elect] APPOINT a chairman from among the members of the
31 [Commission] COUNCIL; and].

32 (2) THE COUNCIL SHALL determine the times and places of the meetings of
33 the [Commission] COUNCIL.

34 (b) A quorum of the [Commission] COUNCIL is 13 members.

35 (c) (1) Unless extended by law, the terms of members end on June 30, ~~2000~~
36 2002.

4

1 (2) If a vacancy occurs during the term of a member, the appointing
2 authority shall appoint another individual to serve the remainder of the term.

3 (d) A member of the [Commission] COUNCIL:

4 (1) may not receive compensation for duties performed as a member of the
5 [Commission] COUNCIL; but

6 (2) is entitled to reimbursement for expenses under the Standard State
7 Travel Regulations, as provided in the State budget.

8 [(e) (1) After consultation with the Governor, the President of the Senate of
9 Maryland, and the Speaker of the House of Delegates, the Commission shall appoint an
10 Executive Director who shall serve at the pleasure of the Commission.

11 (2) The Executive Director shall:

12 (i) be thoroughly experienced in the fiscal and operational policies
13 and practices of the State government and preferably have experience in the private
14 sector;

15 (ii) make recommendations to the Commission concerning:

16 1. the hiring of permanent and part-time staff, who shall be
17 unclassified State employees and serve at the pleasure of the Executive Director; and

18 2. the employment of consultants and professional personnel on
19 a contractual basis;

20 (iii) manage the day-to-day operations of the Commission;

21 (iv) perform other functions that the Commission assigns; and

22 (v) receive an annual salary as determined in the State budget.

23 (f) The Attorney General shall assign one assistant Attorney General to the
24 Commission who shall provide legal aid, advice, and counsel required by the Commission.

25 (g) As agreed upon by the Governor, the President of the Senate of Maryland,
26 and the Speaker of the House of Delegates, the Commission shall, to the extent possible,
27 utilize existing office space and equipment in State facilities.

28 (h) Subject to the approval of the President of the Senate of Maryland, the
29 Speaker of the House of Delegates, the Director of the Department of Fiscal Services,
30 and the Director of the Department of Legislative Reference, the Commission may utilize
31 personnel from the Department of Fiscal Services and the Department of Legislative
32 Reference with due regard for the dictates of practicality.

33 (i) Subject to the approval of the Governor, the Commission may utilize
34 personnel from the Executive Branch with due regard to the dictates of practicality.]

35 9-1806.

36 [(a) This section may not be construed to restrict the budgetary power of the
37 General Assembly.

5

1 (b) The Governor shall include an amount not less than \$600,000 in the Fiscal
2 Year 1996 budget as an appropriation for the Commission.

3 (c) (A) (1) In and after Fiscal Year 1997, the [Commission] COUNCIL shall
4 prepare a budget for submission to the Governor with due regard to the dictates of
5 practicality and the fiscal condition of the State.

6 (2) The Governor shall include an appropriation for the [Commission]
7 COUNCIL in the annual State budget sufficient for the operation of the [Commission]
8 COUNCIL.

9 [(d)] (B) The [Commission] COUNCIL is subject to an audit by the Office of the
10 Legislative Auditor in accordance with §§ 2-1212 through 2-1222 of this article.

11 9-1807.

12 The [Commission] COUNCIL shall:

13 [(1) for purposes of realizing cost efficiency, identify programs and subunits
14 within governmental units that could be reorganized from the standpoint of merging,
15 modifying, or eliminating, including recommendations for a concomitant reduction or
16 shifting of personnel;

17 (2) to reduce unnecessary expenditures without compromising the quality of
18 service delivery or threatening the health, welfare, and well-being of the citizens of the
19 State, encourage the development of proposals for the privatization of selected public
20 services and determine the extent to which the delivery of public services could be
21 competitively bid with the private sector;

22 (3) assess the costs and benefits of existing State mandates imposed on
23 governmental units and of proposals for helping to mitigate the fiscal implications of the
24 mandates;

25 (4) study the operations of and services provided by governmental units in
26 order to develop new mechanisms and procedures to control the costs and efficiency of
27 the governmental units;

28 (5) to facilitate its study of the operations and services of governmental
29 unit, examine the nonprivileged records and other data of the governmental unit in
30 relevant areas of interest to the Commission, including data that relates to:

31 (i) contracting and purchasing policies;

32 (ii) organizational structure;

33 (iii) budget and finance; and

34 (iv) personnel policies and practices;

35 (6) encourage the business community to provide innovative suggestions for
36 improving the managerial efficiency and cost efficiency of the operations of governmental
37 units;

6

1 (7) ascertain and encourage the use of services that could be made available
2 from the public and private higher education academic community to assist State agencies
3 in research, problem solving, and related assistance as a viable alternative to contracting
4 with the private sector;

5 (8) identify alternative ways and means by which specific operations of
6 governmental units could become fiscally self-sustaining;

7 (9) develop proposals to set performance standards for government
8 programs whereby heads of governmental units are responsible for:

9 (i) establishing performance goals that are incorporated into the
10 annual State budget; and

11 (ii) reporting annually on the realization of the goals;

12 (10) assess cost-efficiency incentives that would allow governmental units to:

13 (i) realign compensation structures to reward productivity increases
14 consistent with the attainment of mutually agreed upon service goals; and

15 (ii) carry forward savings from 1 year to the next that would not be
16 subject to the State's General Fund reversionary requirement under § 7-302 of the State
17 Finance and Procurement Article;

18 (11) encourage the utilization of the State's Innovative Idea Award Program
19 and the Incentive Performance Awards Program for State employees under Title 8,
20 Subtitle 2 of the State Personnel and Pensions Article and assess the need for expanding
21 eligibility under these programs;

22 (12) work with appropriate State and local officials:

23 (i) to assess the costs and benefits of existing State mandates imposed
24 on local governments and of proposals for helping to mitigate the fiscal implications of
25 the mandates;

26 (ii) to evaluate the funding and management of those county-funded
27 State entities specified in Article 24, § 8-101 of the Code;

28 (iii) as a substitute for individual State grant programs, to investigate
29 block grant funding proposals that afford greater flexibility at the local level for use of
30 grant funds;

31 (iv) to identify duplicative programs and services and determine which
32 level of government should be exclusively responsible for administration and funding of
33 these programs and services;

34 (v) to formulate short- and long-term strategies that focus on the
35 operating and capital budget needs of local governments and the extent, if any, to which
36 the State should be committed to help finance these needs; and

37 (vi) to determine appropriate changes, if any, to existing taxing
38 authorities; and

7

1 (13) hold regular public hearings throughout the State for the purpose of
2 soliciting public input pertinent to cost efficiency in State government.]

3 (1) SOLICIT IDEAS, PROPOSALS, AND SUGGESTIONS FROM THE
4 BUSINESS COMMUNITY, NONPROFIT ORGANIZATIONS, GOVERNMENT ENTITIES, AND
5 CITIZENS OF THE STATE FOR INNOVATIVE WAYS FOR THE STATE TO MANAGE ITS
6 RESOURCES MORE EFFICIENTLY WHILE MAINTAINING QUALITY PROGRAMS AND
7 DELIVERY OF SERVICES;

8 (2) REVIEW AND EVALUATE THE ORGANIZATIONAL STRUCTURE AND
9 MANAGEMENT PRACTICES OF STATE GOVERNMENT;

10 (3) EVALUATE AND RECOMMEND PUBLIC-PRIVATE PARTNERSHIP
11 ALTERNATIVES REGARDING THE OPERATION AND MANAGEMENT OF STATE
12 PROGRAMS;

13 (4) EVALUATE AND RECOMMEND PUBLIC-PRIVATE PARTNERSHIP
14 ALTERNATIVES REGARDING THE OPERATION, MANAGEMENT, AND OWNERSHIP OF
15 STATE REAL PROPERTY ASSETS;

16 (5) EXAMINE GOVERNMENT CONTRACTING POLICIES AND
17 PROCEDURES; AND

18 (6) PROVIDE INFORMATION ON ENTREPRENEURIAL GOVERNMENT
19 ACTIVITIES AND OFFER PROCEDURAL AND IMPLEMENTATION ASSISTANCE.

20 9-1808.

21 (a) Except as provided in subsection (b) of this section, the State, the
22 [Commission] COUNCIL, and the members of the [Commission] COUNCIL are not
23 personally liable in any action for damages because of acts committed or omitted by the
24 [Commission] COUNCIL, any member of the [Commission] COUNCIL, or any employee
25 of the [Commission] COUNCIL, in the performance of their duties.

26 (b) The immunity from liability provided in subsection (a) of this section does not
27 apply in the case of willful malfeasance or breach of trust by the State, the [Commission]
28 COUNCIL, or any of its members or staff.

29 9-1809.

30 All personnel in any governmental unit shall cooperate with the ~~Commission~~
31 COUNCIL in the discharge of the functions of the ~~Commission~~ COUNCIL, and with regard
32 to any reasonable request that the ~~Commission~~ COUNCIL makes for information
33 associated with its purpose under this subtitle.}

34 9-1810.

35 The Chairman of the Commission and the Executive Director shall be subject to call
36 by the Senate of Maryland or by the House of Delegates, or by any legislative committee
37 of the General Assembly, to provide information relative to the activities of the
38 Commission.]

8

1 9-1811.

2 Unless otherwise extended by law and without any further action required by the
3 General Assembly, the [Commission] COUNCIL shall terminate its existence by June 30,
4 ~~2000~~ 2002.

5 9-1812.

6 [(a)] On or before ~~October 1~~ AUGUST 30 of each year in and after [1995,] 1997, the
7 [Commission] COUNCIL shall submit a report concerning ITS ACTIVITIES AND
8 RECOMMENDATIONS [each governmental unit that the Commission has studied] to:

9 (1) [that governmental unit;

10 (2)] the Governor;

11 [(3)] (2) the Legislative Policy Committee; and

12 [(4)] (3) subject to § 2-1312 of this article, the General Assembly.

13 [(b)] The report of the Commission shall contain recommendations concerning:

14 (1) matters specified in § 9-1807 of this subtitle;

15 (2) the need to modify or eliminate any existing operations or services that a
16 unit provides;

17 (3) the need for any formal executive, judicial, or legislative action;

18 (4) issues in need of further study by the Commission; and

19 (5) any other matter that relates to the purposes of the Commission under
20 this subtitle.]

21 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
22 October 1, 1996.