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1997 Regular Session  
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**By: Chairman, Judicial Proceedings Committee (Departmental - Public Safety and Correctional Services)**

Introduced and read first time: January 27, 1997

Rule 32(e) suspended

Assigned to: Judicial Proceedings

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A BILL ENTITLED

1 AN ACT concerning

2 **Fire Prevention Commission, Office of the State Fire Marshal, and Explosives Advisory**  
3 **Council - Transfer to the Department of State Police**

4 FOR the purpose of transferring the Fire Prevention Commission, the Office of the State  
5 Fire Marshal, and the Explosives Advisory Council from the Department of Public  
6 Safety and Correctional Services to the Department of State Police; transferring  
7 certain rights, powers, duties, obligations, functions, employees, and property to the  
8 Department of State Police; providing that employees of the Department of Public  
9 Safety and Correctional Services who are transferred to the Department of State  
10 Police by this Act shall be transferred without any diminution of their rights,  
11 benefits, or employment status; requiring the Department of Legislative Reference,  
12 in conjunction with the publishers of the Annotated Code of Maryland, to revise the  
13 Code to conform it to the changes made by this Act; and generally relating to the  
14 transfer of the Fire Prevention Commission, the Office of the State Fire Marshal,  
15 and the Explosives Advisory Council to the Department of State Police.

16 BY transferring

17 Article 41 - Governor - Executive and Administrative Departments  
18 Section 4-106  
19 Annotated Code of Maryland  
20 (1993 Replacement Volume and 1996 Supplement)

21 to be

22 Article 88B - Department of State Police  
23 Section 30A  
24 Annotated Code of Maryland  
25 (1995 Replacement Volume and 1996 Supplement)

26 BY repealing and reenacting, with amendments,

27 Article 38A - Fires and Investigations  
28 Section 1, 2, 6, 7, 7A, 45A, 45D, and 62  
29 Annotated Code of Maryland  
30 (1993 Replacement Volume and 1996 Supplement)

2

1 BY repealing and reenacting, with amendments,  
2 Article 41 - Governor - Executive and Administrative Departments  
3 Section 4-102(a) and 4-104(c)  
4 Annotated Code of Maryland  
5 (1993 Replacement Volume and 1996 Supplement)

6 BY repealing and reenacting, with amendments,  
7 Article 88B - Department of State Police  
8 Section 1 and 15  
9 Annotated Code of Maryland  
10 (1993 Replacement Volume and 1996 Supplement)

11 BY repealing and reenacting, with amendments,  
12 Article 88B - Department of State Police  
13 Section 30A  
14 Annotated Code of Maryland  
15 (1993 Replacement Volume and 1996 Supplement)  
16 (As enacted by Section 1 of this Act)

17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
18 MARYLAND, That Section(s) 4-106 of Article 41 - Governor - Executive and  
19 Administrative Departments of the Annotated Code of Maryland be transferred to be  
20 Section(s) 30A of Article 88B - Department of State Police of the Annotated Code of  
21 Maryland.

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

24 **Article 38A - Fires and Investigations**

25 1.

26 (a) There is hereby created a State Fire Prevention Commission, which shall  
27 consist of 9 persons, qualified by experience and training to deal with the matters which  
28 are the responsibilities of the Commission, appointed by the Secretary of [Public Safety  
29 and Correctional Services] THE STATE POLICE, with the approval of the Governor. The  
30 Commission shall be part of the Department of [Public Safety and Correctional Services]  
31 STATE POLICE. The term of office of the members first taking office shall expire as  
32 designated by the Governor at the time of appointment, one at the end of one year, one  
33 at the end of two years, one at the end of three years, two at the end of four years, and  
34 two at the end of five years. Each succeeding term shall be for five years, and any member  
35 is subject to removal by the Secretary of [Public Safety and Correctional Services] THE  
36 STATE POLICE, with the approval of the Governor at any time for neglect of his duties or  
37 for other cause which in the opinion of the Secretary makes his continued membership  
38 unwise in the public interest. Any member appointed to fill a vacancy occurring prior to  
39 the expiration of the term for which his predecessor was appointed, shall be appointed for  
40 the remainder of such term. Members may serve a maximum of 2 terms. Of the members  
41 of said Commission there shall at all times be 1 member who shall be a member of a paid

3

1 fire company; 3 members who shall be members of volunteer fire companies; 1 member  
 2 who shall be an architect or engineer; 1 member who shall be a building contractor; 2  
 3 members of the Commission shall be representatives of industry, and one member shall  
 4 be representative of the general public interest. In addition five of the 9 members of the  
 5 Commission shall reside in the following five regions of the State: (1) Western Maryland  
 6 -- the counties of Garrett, Allegany, Washington, Frederick, and Carroll; (2) Central  
 7 Maryland -- the counties of Harford, Baltimore, and Howard; (3) Southern Maryland --  
 8 the counties of Anne Arundel, Calvert, Charles, and St. Mary's; (4) Washington  
 9 Metropolitan Area -- the counties of Montgomery and Prince George's; and (5) Eastern  
 10 Shore -- the counties of Cecil, Kent, Queen Anne's, Talbot, Caroline, Dorchester,  
 11 Wicomico, Somerset, and Worcester. The remainder of the members shall be appointed  
 12 to represent the State at large.

13 (b) The members of the State Fire Prevention Commission shall serve without  
 14 compensation but shall be reimbursed, in accordance with the Standard State Travel  
 15 Regulations, for their necessary expenses incurred in the performance of their duties.

16 2.

17 (a) The State Fire Prevention Commission shall select a chairman and  
 18 vice-chairman from among its members and shall hold regular meetings at least once  
 19 every two months and special meetings when called by its chairman or the Secretary of  
 20 [Public Safety and Correctional Services] THE STATE POLICE. In the absence of the  
 21 chairman, the vice-chairman shall exercise the powers and duties of chairman.

22 (b) No business shall be transacted by the State Fire Prevention Commission in  
 23 the absence of a quorum which shall be 5 members, one of whom must be the chairman  
 24 or vice-chairman.

25 (c) The exercise or performances of all powers, authority, duties and functions  
 26 vested in the State Fire Prevention Commission or the State Fire Marshal by the  
 27 provisions of this article, shall be subject to the powers and authority of the Secretary of  
 28 [Public Safety and Correctional Services] THE STATE POLICE as set forth in [Article  
 29 41] ARTICLE 88B of this Code or elsewhere in the laws of this State.

30 (d) (1) The State Fire Prevention Commission does not have direct line  
 31 authority over the administration of the State Fire Marshal's office.

32 (2) The State Fire Prevention Commission may make recommendations to  
 33 the Secretary of [Public Safety and Correctional Services] THE STATE POLICE on the  
 34 daily operations of the State Fire Marshal's office, including recommendations on budget  
 35 and personnel matters.

36 6.

37 The State Fire Prevention Commission shall transmit [annually] to the Governor  
 38 and to the Secretary of [Public Safety and Correctional Services] THE STATE POLICE by  
 39 September thirtieth of each year an annual report of its activities.

40 7.

41 (a) (1) The office of State Fire Marshal is established as [part] AN AGENCY of  
 42 the Department of [Public Safety and Correctional Services] STATE POLICE.

1 (2) (i) The Secretary of [Public Safety and Correctional Services] THE  
2 STATE POLICE shall appoint a State Fire Marshal for a six-year term from a list of 3  
3 names submitted by the State Fire Prevention Commission.

4 (ii) The Fire Marshal is in the unclassified service of the State  
5 Personnel Management System and can be removed by the Secretary of [Public Safety  
6 and Correctional Services] THE STATE POLICE, at any time, for neglect of duty or other  
7 conduct unbecoming the office. The Commission may recommend to the Secretary the  
8 removal of the Fire Marshal for cause. Prior to removal, the Fire Marshal shall be given  
9 timely notice by the Secretary with a statement of the charges and an opportunity in  
10 person or by counsel for a public hearing thereon.

11 (iii) The State Fire Marshal shall receive the salary provided in the  
12 State budget.

13 (iv) The State Fire Marshal shall be appointed in accordance with the  
14 following qualifications:

15 1. Graduation from an accredited college or university[, with  
16 specialized study in either the field of fire protection or engineering]; and

17 2. Five years of recent progressively responsible experience in  
18 fire prevention inspection, fire investigation, fire safety promotion, fire protection  
19 engineering, teaching fire safety engineering, or fire fighting, three years of which must  
20 have been at the administrative level.

21 (b) The State Fire Marshal, by delegation of authority vested in the State Fire  
22 Prevention Commission and within policy established by the State Fire Prevention  
23 Commission, has all responsibility for the implementation of fire safety programs in the  
24 State designated to minimize fire hazards and disasters and loss of life and property from  
25 these causes. These responsibilities include, but are not limited to, the establishment and  
26 enforcement of fire safety practices throughout the State, preventive inspection and  
27 correction activities, coordination of fire safety programs with volunteer and paid fire  
28 companies, and other State agencies and political subdivisions exercising enforcement  
29 aspects, and critical analysis and evaluation of Maryland fire loss statistics for  
30 determination of problems and solutions.

31 (c) (1) A fire marshal or appropriate fire official legally designated by a county  
32 or municipal corporation of the State shall serve as assistant State fire marshal, without  
33 compensation, for the purpose of carrying out the provisions of this article, including  
34 issuance of orders, in that county or municipal corporation. Where there is no legally  
35 designated fire marshal in a county or municipal corporation, the State Fire Marshal shall  
36 carry out the provisions of this article therein.

37 (i) The minimum qualifications for an assistant State fire marshal  
38 shall be the completion of National Fire Protection Association (NFPA) Standard 1031 -  
39 Fire Inspector I or the equivalent, as determined by the State Fire Marshal. However, all  
40 legally appointed deputy State fire marshals or special deputy State fire marshals serving  
41 as of July 1, 1985, are exempt from the minimum standard provisions of this section. The  
42 State Fire Marshal may administer an examination based upon NFPA 1031 before a  
43 person is certified as an assistant State fire marshal.

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1 (ii) Upon recommendation of the State Fire Marshal, an assistant or  
2 special assistant State fire marshal may be removed after an administrative hearing for  
3 just cause by a majority decision of the State Fire Prevention Commission.

4 (2) Upon the advice of an assistant State fire marshal, the State Fire  
5 Marshal may designate as a special assistant State fire marshal, a member of any fire  
6 department, duly organized and operating in this State, if the designee is a full-time  
7 employee of the fire department and performs fire inspections or fire investigations. The  
8 Fire Marshal may designate as a special assistant State fire marshal any law enforcement  
9 officer involved in arson investigations or any other suitable persons meeting the  
10 standards established under this article. A special assistant serves at the pleasure of the  
11 State Fire Marshal and without compensation from the State. The special assistant shall  
12 assist the State Fire Marshal in carrying out his duties under this article.

13 (d) The State Fire Marshal's office shall have such assistants, consultants, and  
14 employees as may be provided for in the budget from time to time. The full time  
15 investigative and inspection assistants in the office shall be known as deputy State fire  
16 marshals and shall meet the minimum qualifications required and complete the training  
17 prescribed by the Maryland Police Training Commission for a police officer. The  
18 requirement of minimum qualifications and training shall apply only to the full time  
19 investigative and inspection assistants in the State Fire Marshal's office and not to the fire  
20 inspectors and fire investigators of the local political subdivisions of the State.

21 [(e) The State Fire Prevention Commission may make recommendations to the  
22 Secretary of Public Safety and Correctional Services on the daily administration of the  
23 State Fire Marshal's office, including recommendations on budget and personnel  
24 matters.]

25 7A.

26 (a) Subject to the provisions of Article 27, §§ 742 through 755 of the Code, fire  
27 departments and rescue squads of the State or any of its political subdivisions, volunteer  
28 fire companies and rescue squads, and any ambulance service licensed under § 13-515 of  
29 the Education Article may request the State Fire Marshal or other authorized agency that  
30 has access to the Criminal Justice Information System CENTRAL REPOSITORY IN THE  
31 DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES to conduct an  
32 initial criminal [record] HISTORY RECORDS check on an applicant for employment or  
33 appointment as a volunteer or paid fire fighter, rescue squad member, or paramedic on a  
34 form prescribed by the State Fire Marshal.

35 (b) Upon request by the State Fire Marshal, or by an appropriate authority that  
36 the State Fire Marshal designates by rule, an applicant for appointment or employment  
37 shall furnish a classifiable set of fingerprints on a form approved by the Director of the  
38 Criminal Justice Information System Central Repository OF THE DEPARTMENT OF  
39 PUBLIC SAFETY AND CORRECTIONAL SERVICES to the State Fire Marshal or the  
40 designated authority, for submission to the Criminal Justice Information System Central  
41 Repository OF THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES  
42 for a criminal [record] HISTORY RECORDS check and for forwarding to the Federal  
43 Bureau of Investigation for a national [record] CRIMINAL HISTORY RECORDS check.

1 (c) If a county, Baltimore City, or a municipal corporation has legally designated  
2 a fire marshal to serve as deputy State fire marshal, an applicant in that jurisdiction shall,  
3 upon request, furnish the fingerprints to that deputy fire marshal, for submission to the  
4 Criminal Justice Information System Central Repository OF THE DEPARTMENT OF  
5 PUBLIC SAFETY AND CORRECTIONAL SERVICES for a criminal [record] HISTORY  
6 RECORDS check and for forwarding to the Federal Bureau of Investigation for a national  
7 [record] CRIMINAL HISTORY RECORDS check.

8 (d) A fire department or rescue squad operated by the State or its political  
9 subdivisions and a volunteer fire company or rescue squad may obtain conviction and  
10 arrest records which are the products of a criminal [record] HISTORY RECORDS check  
11 based on a classifiable set of fingerprints.

12 (e) Any volunteer or paid fire company or rescue squad may consider the  
13 existence of a criminal conviction in determining whether or not an applicant will be  
14 appointed or employed.

15 45A.

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

17 (b) "County" includes Baltimore City.

18 (c) (1) "Expenditures for fire protection" or "expend for fire protection" means  
19 county revenues appropriated or to be appropriated for fire protection and the proceeds  
20 of any county bonds used to finance facilities that house fire protection apparatus and  
21 equipment.

22 (2) "Expenditures for fire protection" or "expend for fire protection" does  
23 not include:

24 (i) Salaries, workers' compensation, fringe benefits, or other  
25 personnel, except training, or administrative costs; or

26 (ii) In Carroll County, appropriations for loans to a volunteer fire,  
27 rescue, or ambulance company, secured by mortgages, notes, or other evidence of  
28 indebtedness of the volunteer fire, rescue, or ambulance company, if the appropriations  
29 derive from the proceeds of bonds to finance facilities that house fire protection  
30 apparatus and equipment.

31 (d) "Fire protection" includes rescue and ambulance services.

32 (e) "Fund" means the Fire, Rescue, and Ambulance Fund established under this  
33 subtitle.

34 (f) "Qualified municipality" means any incorporated city or town, except  
35 Baltimore City, within this State whose expenditures for fire protection from municipal  
36 sources exceeds \$25,000.

37 (g) "Secretary" means the Secretary of [Public Safety and Correctional Services]  
38 THE STATE POLICE.

7

1 45D.

2 (a) (1) The funds distributed under this subtitle shall be used as an addition to  
3 and shall not be substituted for moneys appropriated from sources other than this  
4 program by the counties for the purposes listed in § 45B(d)(1) of this subtitle. Each  
5 county shall expend for fire protection from sources other than provided under this  
6 subtitle, in Fiscal Year 1986 and each fiscal year thereafter, an amount of funds that is at  
7 least equal to the average amount of funds expended for fire protection during the 3  
8 preceding fiscal years. Failure to satisfy the requirements of this subsection shall preclude  
9 disbursement of funds under this subtitle to the local government for that fiscal year.

10 (2) Notwithstanding paragraph (1) of this subsection, in each of Fiscal Years  
11 1995 and 1996, in Howard County and Prince George's County only, the County may  
12 receive disbursements under this subtitle subject to a penalty in an amount equal to the  
13 percentage by which the County fails to meet the County's maintenance of effort for  
14 Fiscal Years 1995 and 1996.

15 (b) Each county must expend funds for fire protection from its own sources that  
16 are at least equal to the amount of State funds to be received. A local government may  
17 receive less than the amount initially allocated. In determining the amount expended by  
18 a county, prior to certification, the Secretary shall review the financial information of the  
19 local government for the first completed fiscal year prior to the fiscal year for which State  
20 funds are appropriated. Funds received from the Emergency Assistance Trust Fund  
21 under § 46A of this article or other State funds may not be used as matching funds.

22 (c) Funds not distributed to a county because the requirements of subsections (a)  
23 and (b) of this section are not satisfied shall be reverted to the general funds of this State.

24 (d) The funds distributed under this subtitle and allocated to a county shall be  
25 accounted for and audited in accordance with the procedures for the accounting and  
26 audit of other governmental revenues. However, any funds not expended by the end of  
27 the fiscal year must be placed in a special fund for expenditure in the next succeeding  
28 fiscal year. The balance of any funds distributed under this subtitle that remains  
29 unencumbered or unexpended by the county after the second fiscal year shall be repaid to  
30 the Secretary for deposit in the General Fund of the State. The Comptroller may set off  
31 any shared revenues due a local government in lieu of repayment under this subsection.  
32 The funds distributed under this subtitle to be expended by a volunteer or municipal  
33 company shall be maintained in a separate account and shall be audited in the same  
34 manner as other funds of the volunteer or municipal company are audited. Copies of the  
35 audit of the account shall be submitted to the respective county government and the  
36 Department of [Public Safety and Correctional Services] THE STATE POLICE.

37 (e) (1) Each county shall submit to the Secretary of [Public Safety and  
38 Correctional Services] THE STATE POLICE by December 31 of each year, a report  
39 containing the following information for the preceding fiscal year:

40 (i) The amount of funds distributed to each recipient and the purpose  
41 of expenditure of these funds categorized as provided in § 45B(d)(1) of this subtitle;

42 (ii) The amount and disposition of any unencumbered or unexpended  
43 funds; and

8

1 (iii) The amount of expenditures by the county for fire protection.

2 (2) A copy of this report shall be provided, subject to § 2-1312 of the State  
3 Government Article, to the Department of Fiscal Services.

4 (3) The Secretary may withhold funds with respect to the next fiscal year  
5 from a county if the county does not comply with the provisions of this subtitle. Failure to  
6 comply after notice and opportunity for a hearing may result in the forfeiture of the  
7 allocated funds, either in part or in full, and reversion to the State General Fund.

8 (f) The Secretary shall report annually to the Governor and, subject to § 2-1312  
9 of the State Government Article, to the General Assembly, as to the information  
10 provided by counties on the distribution of aid provided under this subtitle with an  
11 assessment of the extent to which the purposes of this subtitle are being achieved.

12 62.

13 The Department of [Public Safety and Correctional Services] STATE POLICE,  
14 office of the Fire Marshal, shall have the authority to test and issue qualification  
15 certificates, except in those counties that have a board or department of electrical  
16 inspections to any additional nongovernmental organizations seeking to qualify as an  
17 authorized electrical inspection agency. The State Fire Marshal shall regulate the quality  
18 and performance of the inspections of nongovernmental electrical inspection agencies.

#### 19 **Article 41 - Governor - Executive and Administrative Departments**

20 4-102.

21 (a) The following departments, agencies, boards, commissions, offices, divisions,  
22 and units of the State government are included within the Department of Public Safety  
23 and Correctional Services: the Criminal Injuries Compensation Board, the Division of  
24 Correction established pursuant to § 4-105 of this article, the Patuxent Institution, the  
25 Board of Review for Patuxent Institution, [the State Fire Prevention Commission, the  
26 office of State Fire Marshal,] the Police Training Commission, the Maryland Parole  
27 Commission, the Division of Parole and Probation established pursuant to § 4-105 of this  
28 article, the Sundry Claims Board, the Division of Pretrial Detention and Services, the  
29 Vehicle Theft Prevention Council established pursuant to Subtitle 16 of this title, and  
30 such other agencies, boards, commissions, councils, offices, or units of government as may  
31 hereafter pursuant to law be declared to be part of the Department of Public Safety and  
32 Correctional Services.

33 4-104.

34 (c) The Secretary of Public Safety and Correctional Services may in his discretion  
35 exercise or perform any power, duty, responsibility or function which any of the divisions,  
36 boards, commissions, offices or other agencies within the jurisdiction of the Department  
37 of Public Safety and Correctional Services are authorized to exercise or perform, except  
38 for those powers, duties, responsibilities and functions set forth in [Article 38A, §§ 7(a)  
39 and 14(a) of the Code, and] §§ 4-504(a) and (c), 4-507(b), 4-511, and 4-701 of this  
40 article.



9

1       **Article 88B - Department of State Police**

2 1.

3       (A) The Department of State Police is established as a principal department of  
4 State government, shall have powers and duties, and shall be administered in accordance  
5 with this article.

6       (B) (1) THE DEPARTMENT SHALL INCLUDE THE FIRE PREVENTION  
7 COMMISSION AND THE OFFICE OF THE STATE FIRE MARSHAL AS PROVIDED BY  
8 ARTICLE 38A OF THE CODE.

9       (2) THE DEPARTMENT ALSO INCLUDES ANY OTHER DIVISIONS,  
10 AGENCIES, OFFICES, COMMISSIONS, BOARDS, COMMITTEES, COUNCILS, OR UNITS OF  
11 GOVERNMENT AS DETERMINED BY THE SECRETARY OR ESTABLISHED BY LAW AS A  
12 PART OF THE DEPARTMENT.

13 15.

14       (a) The Secretary shall have the power to make any rules necessary to promote  
15 the effective and efficient performance of the duties of the Department and to insure the  
16 good government of the Department and its employees.

17       (b) In supervising and directing the affairs of the Department and in exercising  
18 the powers referred to in the preceding subsection, the authority of the Secretary shall  
19 include, but shall not be limited to, the powers:

20               (1) To determine and establish the form of organization of the Department;

21               (2) To create subordinate organizational subdivisions within the  
22 Department; to determine and define the functions, duties, and responsibilities of each  
23 such organizational subdivision; and, from time to time, to reclassify and redefine the  
24 functions, duties, and responsibilities of any departmental subdivision, whether created  
25 by the Secretary or by law;

26               (3) To assign and reassign, allocate and reallocate, employees of the  
27 Department to such duties, organizational subdivisions, and regional facilities of the  
28 Department as in his judgment may be necessary to best serve the needs of the  
29 Department and the public interest;

30               (4) To establish standards, qualifications, and prerequisites of character,  
31 training, education, and experience for all employees;

32               (5) To determine and establish such ranks and grades and, in accordance  
33 with the provisions of the State Personnel and Pensions Article that govern classified  
34 service employees, such civilian classifications as the Secretary may deem necessary and  
35 appropriate;

36               (6) To designate the authority, responsibility, and duties of such ranks,  
37 grades, and civilian classifications and the order of succession to positions of command  
38 within the Department;

39               (7) To appoint, promote, reduce in rank or civilian classification, reassign,  
40 reclassify, retire, and discharge all employees in the manner prescribed by law;

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1 (8) To regulate attendance, conduct, training, discipline, and procedure for  
2 all employees of the Department;

3 (9) To provide systems for periodic evaluation and improvement of the  
4 performance and physical condition of employees, including in-service training programs  
5 and courses;

6 (10) To establish headquarters, barracks, posts, commands, and other  
7 regional facilities in such localities as may be necessary for the efficient performance of  
8 the duties of the Department and to discontinue such facilities when such need ceases to  
9 exist;

10 (11) To purchase or otherwise acquire such land, facilities, equipment or  
11 services as are deemed essential for the needs of the Department or its employees in  
12 carrying out their duties, in the manner prescribed by law;

13 (12) To sell or dispose of land, facilities or equipment as such become  
14 unnecessary or unfit for further use, in the manner prescribed by law;

15 (13) To establish and modify systems for the reception, processing, and  
16 maintenance of reports and records of occurrences or alleged occurrences of crime and  
17 motor vehicle accidents within the State, and of the administration, management, and  
18 operations of the Department; and to establish procedures, not inconsistent with law, for  
19 the safekeeping, copying, and destruction of departmental records;

20 (14) To suspend, amend, rescind, abrogate or cancel any rule adopted by him  
21 or by any former Secretary;

22 (15) To grant permission to off-duty State Police officers to use police  
23 vehicles during off-duty hours, provided however, that only the officers to whom  
24 permission has been granted may operate the vehicles, and provided that the vehicles, in  
25 the opinion of the Secretary, will not be needed by on-duty officers; and

26 (16) To apply for disability retirement on behalf of a State Police officer who  
27 is permanently physically or mentally incapable of performing his assigned duties if the  
28 State Police officer has refused to apply for disability retirement and if there is sufficient  
29 medical evidence to support a determination of permanent disability.

30 (c) THE SECRETARY MAY NOT EXERCISE OR PERFORM THOSE POWERS,  
31 DUTIES, RESPONSIBILITIES, AND FUNCTIONS SET FORTH IN ARTICLE 38A, §§ 7(A) AND  
32 14(A) OF THE CODE.

33 (D) The Secretary may not make application on behalf of the officer under  
34 subsection (b)(16) of this section until one full year after the onset of the disability and  
35 the expiration of any administrative leave granted under § 23A of this article. Sufficient  
36 medical evidence shall be deemed the professional opinion of an independent medical  
37 practitioner having recognized expertise in the diagnosis and treatment of the specified  
38 illness of the employee in question. Nothing in this section shall prevent an employee  
39 from exercising the individual's rights under § 21-111 of the State Personnel and Pensions  
40 Article.

11

1 30A.

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

3 (2) "Department" means the [State Department of Public Safety and  
4 Correctional Services] DEPARTMENT OF STATE POLICE.

5 (3) (i) "Explosives" means a chemical compound, mixture, or device, the  
6 primary purpose of which is to function by explosion.

7 (ii) "Explosives" includes:

- 8 1. Dynamite;
- 9 2. Other high explosives;
- 10 3. Black powder;
- 11 4. Pellet powder;
- 12 5. Initiating explosives;
- 13 6. Detonators;
- 14 7. Safety fuses;
- 15 8. Squibs;
- 16 9. Detonating cord;
- 17 10. Igniter cord; and
- 18 11. Igniters.

19 (b) There is an Explosives Advisory Council in the [State Department of Public  
20 Safety and Correctional Services] DEPARTMENT OF STATE POLICE.

21 (c) (1) The Council consists of not more than 19 members appointed by the  
22 Governor.

23 (2) Of the 19 members:

24 (i) 5 shall be appointed from explosives user industries, with 1  
25 member appointed from each of the following industries:

- 26 1. Coal mining;
- 27 2. Utility construction;
- 28 3. Explosives distributors;
- 29 4. Quarry or aggregate mining; and
- 30 5. Home or commercial construction industry;

31 (ii) 5 shall be appointed from explosives regulatory agencies, with 1  
32 member appointed from each of the following agencies:

12

1 1. Division of Labor and Industry of the Department of Labor,  
2 Licensing, and Regulation;

3 2. Fire Marshal;

4 3. Fire Prevention Commission;

5 4. Bureau of Mines; and

6 5. Department of Natural Resources;

7 (iii) 5 shall be appointed from the general public, with 1 member  
8 appointed from the following geographic regions of the State:

9 1. Western;

10 2. Central;

11 3. Metropolitan including Baltimore and Washington D.C.;

12 4. Southern; and

13 5. The Eastern Shore;

14 (iv) 2 shall be appointed from the scientific community, with 1 member  
15 appointed from the following areas of scientific specialization:

16 1. Vibration technologist; and

17 2. Pyrotechnic specialists; and

18 (v) 2 shall be ex officio members that the Governor may select at the  
19 Governor's discretion from the administrative agencies of the State.

20 (3) The term of a member is 5 years.

21 (i) The terms of the members are staggered as required by the terms  
22 provided for members of the Council on July 1, 1984.

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

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

27 (iv) If a vacancy occurs, the Council shall recommend a replacement to  
28 the Governor.

29 (d) From among the Council members, the Governor shall appoint a chairman  
30 and a vice chairman.

31 (e) (1) The Council shall meet 6 times a year or as needed at times and places  
32 that the chairman of the Council determines.

13

1 (2) Each member of the Council may not receive compensation, but is  
2 entitled to reimbursement for expenses under the Standard State Travel Regulations, as  
3 provided in the State budget.

4 (3) The chairman of the Council may divide the members into subgroups or  
5 committees as needed.

6 (f) Except for limited staff assistance and supplies, as provided by the  
7 Department to the Council, the Council shall be independent of the Department.

8 (g) The Explosives Advisory Council shall:

9 (1) Advise, assist, and recommend to the Department rules and regulations  
10 for the storage, use, manufacture, and transportation of designated explosives materials;

11 (2) Conduct, on a continual basis, a review of new developments in the  
12 explosives industry including:

13 (i) Safety precautions for manufacturers, users, and distributors;

14 (ii) Techniques for blasting; and

15 (iii) Federal regulation of explosives;

16 (3) Review any proposed Department rule or regulation that affects the  
17 manufacture, use, or distribution of explosives;

18 (4) Recommend to the Department revisions or additions to State law  
19 regulating any aspect of the manufacture, use, or distribution of explosives;

20 (5) Conduct forums for the dissemination of information and education of  
21 the public regarding the manufacture, use, or distribution of explosives;

22 (6) Submit an annual report to the Governor, Secretary of [Public Safety  
23 and Correctional Services] THE STATE POLICE, and the Fire Marshal; and

24 (7) Make a periodic assessment of the performance and sufficiency of the  
25 Council as the Council is now constituted and recommend changes as necessary.

26 SECTION 3. AND BE IT FURTHER ENACTED, That all employees of the  
27 Department of Public Safety and Correctional Services whose positions are transferred to  
28 the Department of State Police by this Act shall be so transferred on the effective date of  
29 this Act without any diminution of their rights, benefits, or employment and retirement  
30 status.

31 SECTION 4. AND BE IT FURTHER ENACTED, That all property, including real  
32 or personal property, records, fixtures, appropriations, credits, assets, liabilities,  
33 obligations, rights, and privileges held by the Department of Public Safety and  
34 Correctional Services to carry out the exclusive functions of the Fire Prevention  
35 Commission, the Office of the State Fire Marshal, or the Explosives Advisory Council  
36 shall be transferred to the Department of State Police on the effective date of this Act.

37 SECTION 5. AND BE IT FURTHER ENACTED, That nothing in this Act affects  
38 the term of office of a member of the Fire Prevention Commission or the Explosives

14

1 Advisory Council. A person who is a member on the effective date of this Act shall  
2 remain a member for the balance of the term to which appointed, unless the member  
3 sooner dies, resigns, or is removed under provisions of law.

4       SECTION 6. AND BE IT FURTHER ENACTED, That, except as otherwise  
5 provided by law, all existing laws, rules and regulations, proposed rules and regulations,  
6 standards and guidelines, policies, orders and other directives, forms, plans,  
7 memberships, contracts, property, investigations, administrative and judicial  
8 responsibilities, rights to sue and be sued, and all other duties and responsibilities  
9 associated with the functions of the Fire Prevention Commission, the Office of the State  
10 Fire Marshal, and the Explosives Advisory Council prior to the effective date of this Act  
11 shall continue in effect under the Department of State Police, until completed,  
12 withdrawn, canceled, modified, or otherwise changed pursuant to law.

13       SECTION 7. AND BE IT FURTHER ENACTED, That all contracts, agreements,  
14 grants, or other obligations entered into by the Fire Prevention Commission or the Office  
15 of the State Fire Marshal, prior to July 1, 1997, are hereby declared to be valid, legal, and  
16 binding obligations of the Department of State Police, enforceable in accordance with  
17 their terms.

18       SECTION 8. AND BE IT FURTHER ENACTED, That the publishers of the  
19 Annotated Code of Maryland, subject to the approval of the Department of Legislative  
20 Reference, shall propose the correction of any agency names and titles throughout the  
21 Annotated Code that are rendered incorrect by this Act and any necessary corrections  
22 shall be satisfied by passage of the Annual Corrective Bill of 1998.

23       SECTION 9. AND BE IT FURTHER ENACTED, That this Act shall take effect  
24 July 1, 1997.