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

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Rule 32(e) suspended

Assigned to: Judicial Proceedings

Committee Report: Favorable

Senate action: Adopted

Read second time: March 18, 1997

CHAPTER _____

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

2

1 (1995 Replacement Volume and 1996 Supplement)

2 BY repealing and reenacting, with amendments,

3 Article 38A - Fires and Investigations

4 Section 1, 2, 6, 7, 7A, 45A, 45D, and 62

5 Annotated Code of Maryland

6 (1993 Replacement Volume and 1996 Supplement)

7 BY repealing and reenacting, with amendments,

8 Article 41 - Governor - Executive and Administrative Departments

9 Section 4-102(a) and 4-104(c)

10 Annotated Code of Maryland

11 (1993 Replacement Volume and 1996 Supplement)

12 BY repealing and reenacting, with amendments,

13 Article 88B - Department of State Police

14 Section 1 and 15

15 Annotated Code of Maryland

16 (1993 Replacement Volume and 1996 Supplement)

17 BY repealing and reenacting, with amendments,

18 Article 88B - Department of State Police

19 Section 30A

20 Annotated Code of Maryland

21 (1993 Replacement Volume and 1996 Supplement)

22 (As enacted by Section 1 of this Act)

23 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

24 MARYLAND, That Section(s) 4-106 of Article 41 - Governor - Executive and

25 Administrative Departments of the Annotated Code of Maryland be transferred to be

26 Section(s) 30A of Article 88B - Department of State Police of the Annotated Code of

27 Maryland.

28 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland

29 read as follows:

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

31 1.

32 (a) There is hereby created a State Fire Prevention Commission, which shall

33 consist of 9 persons, qualified by experience and training to deal with the matters which

34 are the responsibilities of the Commission, appointed by the Secretary of [Public Safety

35 and Correctional Services] THE STATE POLICE, with the approval of the Governor. The

36 Commission shall be part of the Department of [Public Safety and Correctional Services]

37 STATE POLICE. The term of office of the members first taking office shall expire as

38 designated by the Governor at the time of appointment, one at the end of one year, one

39 at the end of two years, one at the end of three years, two at the end of four years, and

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1 two at the end of five years. Each succeeding term shall be for five years, and any member
2 is subject to removal by the Secretary of [Public Safety and Correctional Services] THE
3 STATE POLICE, with the approval of the Governor at any time for neglect of his duties or
4 for other cause which in the opinion of the Secretary makes his continued membership
5 unwise in the public interest. Any member appointed to fill a vacancy occurring prior to
6 the expiration of the term for which his predecessor was appointed, shall be appointed for
7 the remainder of such term. Members may serve a maximum of 2 terms. Of the members
8 of said Commission there shall at all times be 1 member who shall be a member of a paid
9 fire company; 3 members who shall be members of volunteer fire companies; 1 member
10 who shall be an architect or engineer; 1 member who shall be a building contractor; 2
11 members of the Commission shall be representatives of industry, and one member shall
12 be representative of the general public interest. In addition five of the 9 members of the
13 Commission shall reside in the following five regions of the State: (1) Western Maryland
14 -- the counties of Garrett, Allegany, Washington, Frederick, and Carroll; (2) Central
15 Maryland -- the counties of Harford, Baltimore, and Howard; (3) Southern Maryland --
16 the counties of Anne Arundel, Calvert, Charles, and St. Mary's; (4) Washington
17 Metropolitan Area -- the counties of Montgomery and Prince George's; and (5) Eastern
18 Shore -- the counties of Cecil, Kent, Queen Anne's, Talbot, Caroline, Dorchester,
19 Wicomico, Somerset, and Worcester. The remainder of the members shall be appointed
20 to represent the State at large.

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

24 2.

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

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

33 (c) The exercise or performances of all powers, authority, duties and functions
34 vested in the State Fire Prevention Commission or the State Fire Marshal by the
35 provisions of this article, shall be subject to the powers and authority of the Secretary of
36 [Public Safety and Correctional Services] THE STATE POLICE as set forth in [Article
37 41] ARTICLE 88B of this Code or elsewhere in the laws of this State.

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

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

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1 6.

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

5 7.

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

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

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

18 (iii) The State Fire Marshal shall receive the salary provided in the
19 State budget.

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

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

24 2. Five years of recent progressively responsible experience in
25 fire prevention inspection, fire investigation, fire safety promotion, fire protection
26 engineering, teaching fire safety engineering, or fire fighting, three years of which must
27 have been at the administrative level.

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

38 (c) (1) A fire marshal or appropriate fire official legally designated by a county
39 or municipal corporation of the State shall serve as assistant State fire marshal, without
40 compensation, for the purpose of carrying out the provisions of this article, including
41 issuance of orders, in that county or municipal corporation. Where there is no legally

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1 designated fire marshal in a county or municipal corporation, the State Fire Marshal shall
2 carry out the provisions of this article therein.

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

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

13 (2) Upon the advice of an assistant State fire marshal, the State Fire
14 Marshal may designate as a special assistant State fire marshal, a member of any fire
15 department, duly organized and operating in this State, if the designee is a full-time
16 employee of the fire department and performs fire inspections or fire investigations. The
17 Fire Marshal may designate as a special assistant State fire marshal any law enforcement
18 officer involved in arson investigations or any other suitable persons meeting the
19 standards established under this article. A special assistant serves at the pleasure of the
20 State Fire Marshal and without compensation from the State. The special assistant shall
21 assist the State Fire Marshal in carrying out his duties under this article.

22 (d) The State Fire Marshal's office shall have such assistants, consultants, and
23 employees as may be provided for in the budget from time to time. The full time
24 investigative and inspection assistants in the office shall be known as deputy State fire
25 marshals and shall meet the minimum qualifications required and complete the training
26 prescribed by the Maryland Police Training Commission for a police officer. The
27 requirement of minimum qualifications and training shall apply only to the full time
28 investigative and inspection assistants in the State Fire Marshal's office and not to the fire
29 inspectors and fire investigators of the local political subdivisions of the State.

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

34 7A.

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

1 (b) Upon request by the State Fire Marshal, or by an appropriate authority that
 2 the State Fire Marshal designates by rule, an applicant for appointment or employment
 3 shall furnish a classifiable set of fingerprints on a form approved by the Director of the
 4 Criminal Justice Information System Central Repository OF THE DEPARTMENT OF
 5 PUBLIC SAFETY AND CORRECTIONAL SERVICES to the State Fire Marshal or the
 6 designated authority, for submission to the Criminal Justice Information System Central
 7 Repository OF THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES
 8 for a criminal [record] HISTORY RECORDS check and for forwarding to the Federal
 9 Bureau of Investigation for a national [record] CRIMINAL HISTORY RECORDS check.

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

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

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

24 45A.

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

26 (b) "County" includes Baltimore City.

27 (c) (1) "Expenditures for fire protection" or "expend for fire protection" means
 28 county revenues appropriated or to be appropriated for fire protection and the proceeds
 29 of any county bonds used to finance facilities that house fire protection apparatus and
 30 equipment.

31 (2) "Expenditures for fire protection" or "expend for fire protection" does
 32 not include:

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

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

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

7

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

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

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

8 45D.

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

17 (2) Notwithstanding paragraph (1) of this subsection, in each of Fiscal Years
18 1995 and 1996, in Howard County and Prince George's County only, the County may
19 receive disbursements under this subtitle subject to a penalty in an amount equal to the
20 percentage by which the County fails to meet the County's maintenance of effort for
21 Fiscal Years 1995 and 1996.

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

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

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

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

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

6 (ii) The amount and disposition of any unencumbered or unexpended
7 funds; and

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

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

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

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

19 62.

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

26 **Article 41 - Governor - Executive and Administrative Departments**

27 4-102.

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

9

1 4-104.

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

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

10 1.

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

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

17 (2) THE DEPARTMENT ALSO INCLUDES ANY OTHER DIVISIONS,
18 AGENCIES, OFFICES, COMMISSIONS, BOARDS, COMMITTEES, COUNCILS, OR UNITS OF
19 GOVERNMENT AS DETERMINED BY THE SECRETARY OR ESTABLISHED BY LAW AS A
20 PART OF THE DEPARTMENT.

21 15.

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

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

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

29 (2) To create subordinate organizational subdivisions within the
30 Department; to determine and define the functions, duties, and responsibilities of each
31 such organizational subdivision; and, from time to time, to reclassify and redefine the
32 functions, duties, and responsibilities of any departmental subdivision, whether created
33 by the Secretary or by law;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

39 (c) THE SECRETARY MAY NOT EXERCISE OR PERFORM THOSE POWERS,
40 DUTIES, RESPONSIBILITIES, AND FUNCTIONS SET FORTH IN ARTICLE 38A, §§ 7(A) AND
41 14(A) OF THE CODE.

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

9 30A.

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

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

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

15 (ii) "Explosives" includes:

- 16 1. Dynamite;
- 17 2. Other high explosives;
- 18 3. Black powder;
- 19 4. Pellet powder;
- 20 5. Initiating explosives;
- 21 6. Detonators;
- 22 7. Safety fuses;
- 23 8. Squibs;
- 24 9. Detonating cord;
- 25 10. Igniter cord; and
- 26 11. Igniters.

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

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

31 (2) Of the 19 members:

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

- 34 1. Coal mining;

12

- 1 2. Utility construction;
- 2 3. Explosives distributors;
- 3 4. Quarry or aggregate mining; and
- 4 5. Home or commercial construction industry;

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

- 7 1. Division of Labor and Industry of the Department of Labor,
8 Licensing, and Regulation;
- 9 2. Fire Marshal;
- 10 3. Fire Prevention Commission;
- 11 4. Bureau of Mines; and
- 12 5. Department of Natural Resources;

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

- 15 1. Western;
- 16 2. Central;
- 17 3. Metropolitan including Baltimore and Washington D.C.;
- 18 4. Southern; and
- 19 5. The Eastern Shore;

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

- 22 1. Vibration technologist; and
- 23 2. Pyrotechnic specialists; and

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

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

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

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

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

13

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

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

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

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

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

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

14 (g) The Explosives Advisory Council shall:

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

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

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

20 (ii) Techniques for blasting; and

21 (iii) Federal regulation of explosives;

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

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

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

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

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

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

14

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

7 SECTION 5. AND BE IT FURTHER ENACTED, That nothing in this Act affects
8 the term of office of a member of the Fire Prevention Commission or the Explosives
9 Advisory Council. A person who is a member on the effective date of this Act shall
10 remain a member for the balance of the term to which appointed, unless the member
11 sooner dies, resigns, or is removed under provisions of law.

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

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

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

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