

SENATE BILL 304
EMERGENCY BILL

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P5

2002 Regular Session
2lr0395

By: **The President (Department of Legislative Services)**

Introduced and read first time: January 24, 2002

Assigned to: Rules

Committee Report: Favorable

Senate action: Adopted

Read second time: February 14, 2002

CHAPTER _____

1 AN ACT concerning

2

Annual Curative Bill

3 FOR the purpose of generally curing previous Acts of the General Assembly with
4 possible title or other defects; authorizing the State Board of Education or a
5 county board of education to enter into a certain partnership with the county's
6 circuit court judges to oversee the juvenile justice alternative education pilot
7 program; requiring the State Treasurer to manage, invest, and reinvest the
8 Maryland Health Care Trust in the same manner as State funds are invested;
9 providing for the effect and construction of certain provisions of this Act; making
10 this Act an emergency measure; and generally repealing and reenacting without
11 amendments certain Acts of the General Assembly that may be subject to
12 possible title or other defects in order to validate those Acts.

13 BY repealing and reenacting, without amendments,
14 Article 28 - Maryland-National Capital Park and Planning Commission
15 Section 8-110.2
16 Annotated Code of Maryland
17 (1997 Replacement Volume and 2001 Supplement)

18 BY repealing and reenacting, without amendments,
19 Article 83A - Department of Business and Economic Development
20 Section 5-1410
21 Annotated Code of Maryland
22 (1998 Replacement Volume and 2001 Supplement)

23 BY repealing and reenacting, without amendments,
24 Article - Education

1 Section 7-305.1
2 Annotated Code of Maryland
3 (2001 Replacement Volume)

4 BY repealing and reenacting, without amendments,
5 Article - Insurance
6 Section 1-101
7 Annotated Code of Maryland
8 (1997 Volume and 2001 Supplement)

9 BY repealing and reenacting, without amendments,
10 Chapter 701 of the Acts of the General Assembly of 2001
11 Section 2

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

14 **Article 28 - Maryland-National Capital Park and Planning Commission**

15 8-110.2.

16 The district council of Prince George's County may not approve a special
17 exception to construct or operate a rubble landfill at a site without a three-fourths
18 majority vote of the district council.

19 DRAFTER'S NOTE:

20 Error: Body of bill being cured incorrectly indicated that Article 28, §
21 8110.2, rather than § 8-110.2, was being amended.

22 Occurred: Chapter 686 (House Bill 826) of the Acts of 2001.

23 **Article 83A - Department of Business and Economic Development**

24 5-1410.

25 (a) Annually, after considering the recommendation of the Maryland
26 Economic Development Commission, the Authority shall establish a list of industry
27 sectors that will be eligible for loans from the Fund.

28 (b) Before making its recommendation to the Authority, the Maryland
29 Economic Development Commission shall:

30 (1) Consult with the Department and the Department of Labor,
31 Licensing, and Regulation; and

32 (2) Evaluate the potential employment and economic growth of
33 Maryland's industry sectors.

1 (c) In determining whether an applicant is engaged in an eligible industry
2 sector, the Department shall consider the definitions set forth in the Standard
3 Industrial Classification Manual.

4 (d) The provisions of this section do not apply to financial assistance to a local
5 government that uses the financial assistance provided under this subtitle to carry
6 out a project that does not benefit a particular private sector entity.

7 (e) For the purpose of providing financial assistance under this subtitle, the
8 following shall be deemed to be in eligible industry sectors and are not subject to the
9 requirements specifically imposed on significant strategic economic development
10 opportunities and local economic development opportunities:

- 11 (1) Animal waste technology projects;
- 12 (2) Aquaculture projects;
- 13 (3) Redevelopment of qualified brownfields sites;
- 14 (4) Creation or expansion of child care facilities; and
- 15 (5) Arts and entertainment enterprises and arts and entertainment
16 projects.

17 DRAFTER'S NOTE:

18 Error: Function paragraph of bill being cured incorrectly indicated that
19 Article 83A, § 5-1410 was both amended and added.

20 Occurred: Chapter 608 (Senate Bill 586) of the Acts of 2001.

21 **Article - Education**

22 7-305.1.

23 (a) The State Board shall establish in a county designated by the State
24 Superintendent a juvenile justice alternative education pilot program for public
25 school students who are suspended, expelled, or identified as being candidates for
26 suspension or expulsion as provided in subsection (d) of this section.

27 (b) The Department or the county board for the county designated under
28 subsection (a) of this section may enter into a partnership with the county's circuit
29 court judges to oversee the juvenile justice disciplinary alternative education pilot
30 program for public school students who are suspended, expelled, or identified as being
31 candidates for suspension or expulsion.

32 (c) (1) The State Board may select a private agency to administer the
33 juvenile justice alternative education pilot program.

34 (2) The selected private agency shall:

1 (i) Provide proof of student progress in reading and mathematics;

2 and

3 (ii) Have at least 3 years of experience serving students that are
4 suspended, expelled, or identified as being candidates for suspension or expulsion.

5 (d) Except for a student who is adjudicated delinquent and committed by the
6 juvenile court to a public or licensed private agency for placement in a facility under
7 § 3-8A-19 of the Courts Article, a student who is required to attend school under §
8 7-301 of this subtitle and who is suspended, expelled, or identified as being a
9 candidate for suspension or expulsion from a public school in the county designated
10 under subsection (a) of this section shall attend the juvenile justice alternative
11 education pilot program.

12 (e) The juvenile justice alternative education pilot program shall:

13 (1) Provide programs designed to promote self-discipline and reduce
14 disruptive behavior in the school environment;

15 (2) Ensure that the student continues to receive appropriate educational
16 and related services during the term of the suspension or expulsion; and

17 (3) Offer services to facilitate the student's transition back to the school
18 after completion of the term of suspension or expulsion.

19 DRAFTER'S NOTE:

20 Error: Incorrect word usage in purpose paragraph of bill being cured.

21 Occurred: Chapter 685 (House Bill 825) of the Acts of 2001.

22 **Article - Insurance**

23 1-101.

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

25 (b) "Administration" means the Maryland Insurance Administration.

26 (c) "Alien insurer" means an insurer that is formed under the laws of a
27 jurisdiction other than the United States or a state.

28 (d) (1) "Annuity" means an agreement to make periodic payments for which
29 the making or continuance of all or some of a series of the payments, or the amount of
30 a payment, depends on the continuance of a human life.

31 (2) "Annuity" includes an additional benefit that operates to safeguard
32 the contract from lapse or to provide a special surrender value, special benefit, or
33 annuity in the event of the total and permanent disability of the holder.

34 (3) "Annuity" does not include life insurance.

- 1 (e) "Annuity contract" means a contract that provides for an annuity.
- 2 (f) "Appointment" means an agreement between an insurance producer and
3 insurer under which the insurance producer, for compensation, may sell, solicit, or
4 negotiate policies issued by the insurer.
- 5 (g) "Authorized insurer" means an insurer that holds a valid certificate of
6 authority.
- 7 (h) "Burial insurance" includes any kind of agreement, certificate, policy,
8 contract, bond, assurance guarantee, or other arrangement, by bylaw, regulation, or
9 otherwise, in or by which the party that issues the certificate, policy, contract, bond,
10 assurance guarantee, or other arrangement agrees to:
- 11 (1) provide for the burial of a named or designated deceased individual;
- 12 (2) save harmless anyone for all or part of the costs of the burial of a
13 named or designated deceased individual; or
- 14 (3) pay all or part of the incidents of the burial of a named or designated
15 deceased individual.
- 16 (i) (1) "Casualty insurance" means:
- 17 (i) insurance against legal, contractual, or assumed liability for
18 death, injury, or disability of a human being, or for damage to property;
- 19 (ii) if issued as an incidental coverage with or supplemental to
20 liability insurance and regardless of legal liability of the insured, insurance that
21 provides medical, hospital, or surgical disability benefits to injured individuals and
22 funeral and death benefits to dependents, beneficiaries, or personal representatives
23 of individuals killed; or
- 24 (iii) unless disapproved by the Commissioner as contrary to law or
25 public policy, insurance against any other kind of loss, damage, or liability that is
26 properly a subject of insurance and not within any other kind of insurance described
27 in this subsection.
- 28 (2) "Casualty insurance" includes motor vehicle physical damage
29 insurance, burglary and theft insurance, glass insurance, workers' compensation
30 insurance, employer's liability insurance, and boiler and machinery insurance.
- 31 (j) "Certificate of authority" means a certificate issued by the Commissioner
32 to engage in the insurance business.
- 33 (k) "Commissioner" means the Maryland Insurance Commissioner.
- 34 (l) "County" means a county of the State or Baltimore City.
- 35 (m) "Domestic insurer" means an insurer that is formed under the laws of the
36 State.

- 1 (n) (1) "Foreign insurer" means an insurer that is formed under the laws of
2 a jurisdiction other than this State.
- 3 (2) Unless the context requires otherwise, "foreign insurer" includes an
4 alien insurer.
- 5 (o) "Fund producer" means a licensed insurance producer, including a licensed
6 independent insurance producer, that has been assigned an authorization code by the
7 Maryland Automobile Insurance Fund.
- 8 (p) (1) "Health insurance" means insurance of human beings against:
- 9 (i) bodily injury, disablement, or death by accident or accidental
10 means, or the expenses of bodily injury, disablement, or death by accident or
11 accidental means;
- 12 (ii) disablement or expenses resulting from sickness or childbirth;
13 and
- 14 (iii) expenses incurred in prevention of sickness or dental care.
- 15 (2) "Health insurance" includes:
- 16 (i) accident insurance;
- 17 (ii) disability insurance; and
- 18 (iii) each insurance appertaining to health insurance.
- 19 (3) "Health insurance" does not include workers' compensation
20 insurance.
- 21 (q) "Independent insurance producer" means an insurance producer:
- 22 (1) that is not owned or controlled by an insurer or group of insurers;
- 23 (2) the appointment of which does not prohibit the representation of
24 more than one insurer or group of insurers; and
- 25 (3) the appointment of which provides that:
- 26 (i) at termination, the records of the insurance producer remain
27 the property of the insurance producer; and
- 28 (ii) the insurance producer retains the use and control of all
29 expirations incurred during the period when the appointment was in effect.
- 30 (r) "Industrial life insurance" means life insurance provided by an individual
31 policy with the term "industrial" printed on the policy as part of the brief description
32 required by § 16-213 of this article, and under which premiums are payable monthly

1 or more frequently, if the face amount of the insurance provided by the policy does not
2 exceed \$1,000.

3 (s) Except as expressly provided otherwise in this article, "insurance" means a
4 contract to indemnify or to pay or provide a specified or determinable amount or
5 benefit on the occurrence of a determinable contingency.

6 (t) (1) "Insurance business" includes the transaction of:

7 (i) all matters pertaining to an insurance contract, either before or
8 after it takes effect; and

9 (ii) all matters arising from an insurance contract or a claim under
10 it.

11 (2) "Insurance business" does not include pooling by public entities for
12 self-insurance of casualty, property, or health risks.

13 (u) (1) "Insurance producer" means a person that, for compensation, sells,
14 solicits, or negotiates insurance contracts, including contracts for nonprofit health
15 service plans, dental plan organizations, and health maintenance organizations, or
16 the renewal or continuance of these insurance contracts for:

17 (i) persons issuing the insurance contracts; or

18 (ii) insureds or prospective insureds other than the insurance
19 producer.

20 (2) "Insurance producer" does not include:

21 (i) an individual who performs clerical or similar office duties
22 while employed by an insurance producer or insurer, including a clerical employee,
23 other than a clerical employee of an insurer, who takes insurance information or
24 receives premiums in the insurance producer's office, if the employee's compensation
25 does not vary with the number of applications or amount of premiums;

26 (ii) a regular salaried officer or employee of an insurer who gives
27 help to or for a licensed insurance producer, if the officer or employee is not paid a
28 commission or other compensation that depends directly on the amount of business
29 obtained; or

30 (iii) if not paid a commission, a person that obtains and forwards
31 information for:

32 1. group insurance coverage;

33 2. enrolling individuals under group insurance coverage;

34 3. issuing certificates under group insurance coverage; or

35 4. otherwise assisting in administering group plans.

1 (v) "Insurer" includes each person engaged as indemnitor, surety, or contractor
2 in the business of entering into insurance contracts.

3 (w) "Licensed insurance producer" means an insurance producer that has:

4 (1) obtained a license under Title 10, Subtitle 1 of this article; and

5 (2) in the case of an insurance producer that acts on behalf of an insurer
6 other than the Maryland Automobile Insurance Fund, obtained an appointment
7 under Title 10, Subtitle 1 of this article.

8 (x) (1) "Life insurance" means insurance for which the probabilities of the
9 duration of human life or the rate of mortality are an element or condition of the
10 insurance.

11 (2) "Life insurance" includes the granting of:

12 (i) endowment benefits;

13 (ii) additional benefits in the event of death by accident or
14 accidental means;

15 (iii) additional disability benefits in the event of dismemberment or
16 loss of sight;

17 (iv) additional disability benefits that operate to safeguard the
18 contract from lapse or to provide a special surrender value, special benefit, or annuity
19 in the event of total and permanent disability;

20 (v) benefits that provide payment or reimbursement for long-term
21 home health care, or long-term care in a nursing home or other related institution;

22 (vi) burial insurance; and

23 (vii) optional modes of settlement of proceeds of life insurance.

24 (3) "Life insurance" does not include workers' compensation insurance.

25 (y) "Life insurer" means an insurer in life insurance.

26 (z) (1) "Marine insurance" includes:

27 (i) insurance against loss or damage in connection with any risk of
28 navigation, transit, or transportation, including war risks, marine builder's risks and
29 personal property floater risks, to vessels, craft, aircraft, automobiles, trailers, or
30 vehicles of any kind, as well as all goods, freight, cargoes, merchandise, effects,
31 disbursements, profits, money, bullion, precious stones, securities, choses in action,
32 evidences of debt, valuable papers, bottomry and respondentia interests, and all other
33 kinds of property and interests:

34 1. on or under water, on land, or in the air;

1 person engaged in that act either sells insurance or obtains insurance from insurers
2 for purchasers.

3 (dd) "Person" means an individual, receiver, trustee, guardian, personal
4 representative, fiduciary, representative of any kind, partnership, firm, association,
5 corporation, or other entity.

6 (ee) (1) "Policy" means the written instrument in which an insurance
7 contract is set forth.

8 (2) "Policy" includes all clauses, endorsements, riders, and other papers
9 attached to or made part of the insurance contract.

10 (ff) (1) "Premium" means consideration for insurance.

11 (2) "Premium" includes:

12 (i) except as provided in paragraph (3) of this subsection, an
13 assessment; and

14 (ii) a membership fee, policy fee, survey fee, inspection fee, service
15 fee, or other similar fee in consideration for an insurance contract.

16 (3) "Premium" does not include:

17 (i) an assessment as described in § 9-225 of this article; or

18 (ii) an assessment made under any State law that provides for
19 insolvency protection or insurance availability.

20 (gg) (1) "Property insurance" means insurance on real or personal property
21 on land, in water, or in the air or an interest in real or personal property against loss
22 or damage from any hazard or cause and against loss that is consequential to the loss
23 or damage.

24 (2) "Property insurance" includes fire insurance, flood insurance,
25 extended coverage insurance, homeowners insurance, farm owners insurance, allied
26 lines insurance, earthquake insurance, growing crops insurance, aircraft physical
27 damage insurance, automobile physical damage insurance, glass insurance, livestock
28 insurance, and animal insurance.

29 (3) "Property insurance" does not include insurance against legal
30 liability for loss or damage to real or personal property.

31 (hh) "Reciprocal insurance" means insurance that arises from an exchange
32 among subscribers of mutual agreements of indemnity and that is effected through an
33 attorney in fact common to the subscribers.

34 (ii) "Reciprocal insurer" means an unincorporated aggregation of subscribers
35 that operate individually and collectively through an attorney in fact to provide
36 reciprocal insurance.

1 (jj) "Reinsurance" means a contract under which an insurer obtains insurance
2 for itself from another insurer for all or part of an insurance risk.

3 (kk) "Sell" means to exchange a contract of insurance by any means, for money
4 or its equivalent, on behalf of an insurer.

5 (ll) "Solicit" means to attempt to sell insurance or to ask or urge a person to
6 apply for a particular kind of insurance from a particular insurer.

7 (mm) Except as otherwise expressly provided in this article, "state" means:

8 (1) a state, possession, territory, or commonwealth of the United States;
9 or

10 (2) the District of Columbia.

11 (nn) "Stock insurer" means an insurer that is incorporated with capital that is
12 divided into shares and owned by its stockholders.

13 (oo) "Surety insurance" includes:

14 (1) fidelity insurance, which is insurance that guarantees the fidelity of
15 persons that hold positions of public or private trust;

16 (2) insurance that guarantees the performance of contracts other than
17 insurance contracts;

18 (3) insurance that guarantees the execution of bonds, undertakings, and
19 contracts of suretyship; and

20 (4) insurance that indemnifies banks, bankers, brokers, or financial
21 corporations or associations against loss from any cause of bills of exchange, notes,
22 bonds, securities, evidences of debt, deeds, mortgages, warehouse receipts, other
23 valuable papers, documents, money, precious metals, articles made from precious
24 metals, jewelry, watches, necklaces, bracelets, gems, and precious and semi-precious
25 stones, including loss during transportation by messenger or in armored motor
26 vehicles, but not against other risks of transportation or navigation, and insurance
27 against loss or damage to a bank's, banker's, broker's, or financial corporation's or
28 association's premises or furniture, fixtures, equipment, safes, and vaults on the
29 premises caused by burglary, robbery, theft, vandalism, or malicious mischief, or
30 attempted burglary, robbery, theft, vandalism, or malicious mischief.

31 (pp) "Surplus lines insurance" means the full amount or kind of insurance
32 needed to protect the interest of the insured that:

33 (1) cannot be obtained from an authorized insurer; or

34 (2) for the particular kind and class of insurance to provide coverage
35 against liability of persons described in § 24-206(1) of this article, cannot be obtained

1 from three or more authorized insurers that write that kind and class of insurance on
2 a broad basis.

3 (qq) "Title insurance" means insurance of owners of property or other persons
4 that have an interest in the property against loss by encumbrance, defective title,
5 invalidity of title, or adverse claim to title.

6 (rr) "Unauthorized insurer" means an insurer that does not hold a certificate of
7 authority.

8 (ss) "Wet marine and transportation insurance" means the part of marine
9 insurance that includes only:

10 (1) insurance of vessels, crafts, or hulls and interests in or related to
11 them;

12 (2) insurance of marine builder's risks or marine war risks;

13 (3) marine protection and indemnity insurance;

14 (4) insurance of freights and disbursements pertaining to a subject of
15 insurance under this subsection; and

16 (5) insurance of personal property and interests in personal property, in
17 connection with any risk of navigation, transit, or transportation:

18 (i) in the course of exportation from or importation into a country
19 and in the course of transportation along a coast or on inland waters, including
20 transportation by land, water, or air from point of origin to final destination;

21 (ii) while being prepared for and while awaiting shipment; and

22 (iii) during any delay, storage, transshipment, or incidental
23 reshipment.

24 (tt) (1) "Wholesale life insurance" means life insurance that is:

25 (i) distributed on a mass merchandising basis;

26 (ii) administered by group methods provided, with or without
27 evidence of insurability, by individual policies; and

28 (iii) made available to employees or members under a program,
29 which also may provide coverage of dependents of the employees or members,
30 sponsored by:

31 1. an employer or association of employers;

32 2. a union or association of unions;

1 1. improve the health status of residents of the State; and

2 2. specifically direct the use of assets of the Trust; and

3 (4) Moneys expended from the Trust are supplemental to, and are not
4 intended to take the place of, State funds that would otherwise be appropriated by the
5 State for the improvement of the health care status of the residents of the State;

6 (b) (1) The Maryland Health Care Foundation shall be the Trustee of the
7 Trust; and

8 (2) The powers and duties of the Trust shall rest in and be exercised by
9 the Trustee;

10 (c) The powers and duties of the Trust shall be established and modified solely
11 by the General Assembly;

12 (d) The Trust consists of the public and charitable assets received by the
13 Maryland Health Care Foundation as a result of the acquisition of a nonprofit health
14 service plan or a nonprofit health maintenance organization, approved by the
15 Maryland Insurance Administration on or after June 1, 2001, in accordance with Title
16 6.5 of the State Government Article;

17 (e) The State Treasurer shall manage, invest, and reinvest the Trust in the
18 same manner as State funds are invested, provided, however, that the Trust shall be
19 held and accounted for separate and apart from the funds of the State;

20 (f) (1) Subject to item (2) of this subsection, any interest or other
21 investment earnings of the Trust shall be credited and paid into the Trust; and

22 (2) The Trustee shall grant to the Maryland Health Care Foundation any
23 interest and other investment earnings that accrue on the assets of the Trust before
24 July 1, 2002, not exceeding a total of \$10,000,000; and

25 (g) (1) The Trustee shall make provision for a system of financial
26 accounting, controls, audits, and reports; and

27 (2) The Trustee shall report to the Governor, and, in accordance with §
28 2-1246 of the State Government Article, to the General Assembly on or before
29 December 1, 2001 and annually thereafter on the status of the assets of the Trust.

30 DRAFTER'S NOTE:

31 Error: Incorrect word usage in purpose paragraph of bill being cured.

32 Occurred: Chapter 701 (House Bill 1042) of the Acts of 2001.

33 SECTION 2. AND BE IT FURTHER ENACTED, That the Drafter's Notes
34 contained in this Act are not law and may not be considered to have been enacted as
35 part of this Act.

1 SECTION 3. AND BE IT FURTHER ENACTED, That this Act is an emergency
2 measure, is necessary for the immediate preservation of the public health or safety,
3 has been passed by a yea and nay vote supported by three-fifths of all the members
4 elected to each of the two Houses of the General Assembly, and shall take effect from
5 the date it is enacted.