

SENATE BILL 640

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2004 Regular Session
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By: **Senator Astle (Department of Natural Resources Special Funds
Workgroup)**

Introduced and read first time: February 6, 2004

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Natural Resources - Special Funds and Accounts - Administrative Costs**

3 FOR the purpose of authorizing the Secretary of Natural Resources to use money in
4 certain funds or accounts for certain administrative expenses based on a
5 generally accepted methodology for determining indirect costs; requiring the
6 Secretary to submit any changes to the indirect costs methodology for review
7 and comment to the House Appropriations Committee and the Senate Budget
8 and Taxation Committee within a certain time period; providing for the
9 administrative costs of certain funds and accounts administered by the
10 Department of Natural Resources; making certain stylistic changes; and
11 generally relating to special funds and accounts administered by the
12 Department of Natural Resources.

13 BY repealing and reenacting, with amendments,
14 Article - Natural Resources
15 Section 1-103(b), 1-703, 4-208, 4-209, 5-103(e), 5-209(b), 5-212, 5-212.1,
16 5-215(b), 5-307, 5-908, 5-908.1, 5-909, 5-1505, 8-710.2, 8-723, 8-729,
17 8-1004, 10-209, and 10-301(n)
18 Annotated Code of Maryland
19 (2000 Replacement Volume and 2003 Supplement)

20 BY repealing and reenacting, without amendments,
21 Article - Natural Resources
22 Section 1-702(a), 5-103(d), 5-215(a), 5-1501, and 8-1005(a)(1)
23 Annotated Code of Maryland
24 (2000 Replacement Volume and 2003 Supplement)

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

1 **Article - Natural Resources**

2 1-103.

3 (b) (1) The Secretary is responsible for the budget of his office and for the
4 budgets of the units within the Department.5 (2) (I) UNLESS OTHERWISE AUTHORIZED BY STATUTE, THE
6 SECRETARY MAY USE MONEY IN A FUND OR ACCOUNT CREATED UNDER THIS
7 ARTICLE FOR ADMINISTRATIVE EXPENSES DIRECTLY RELATING TO THE PURPOSES
8 OF THE FUND OR ACCOUNT UP TO AN AMOUNT CALCULATED UNDER A GENERALLY
9 ACCEPTED METHODOLOGY FOR DETERMINING INDIRECT COSTS.10 (II) THE SECRETARY SHALL SUBMIT ANY CHANGES TO THE
11 METHODOLOGY USED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH FOR REVIEW
12 AND COMMENT TO THE HOUSE APPROPRIATIONS COMMITTEE AND THE SENATE
13 BUDGET AND TAXATION COMMITTEE WITHIN 45 DAYS BEFORE IMPLEMENTING THE
14 METHODOLOGY.

15 1-702.

16 (a) There is a State Chesapeake Bay and Endangered Species Fund.

17 1-703.

18 (a) (1) The Secretary may distribute not more than 5% of the net proceeds of
19 the Fund to a promotional account to be used to promote further donations to the
20 Fund.21 (2) MONEYS IN THE FUND MAY BE USED FOR ADMINISTRATIVE COSTS
22 CALCULATED IN ACCORDANCE WITH § 1-103(B)(2) OF THIS TITLE.23 (b) After making the [distribution] DISTRIBUTIONS allowed under subsection
24 (a) of this section, the Secretary shall distribute the remainder of the net proceeds of
25 the Fund as follows:26 (1) 50% to the Chesapeake Bay Trust established under § 8-1901 of this
27 article, to be used by the Trust only as provided in § 1-704 of this subtitle; and28 (2) 50% to an endangered species account, to be used only to conserve
29 nongame, threatened and endangered species as provided in § 1-705 of this subtitle.
30 4-208.31 (A) There is a State Fisheries Management and Protection Fund in the
32 Department.33 (B) Any money received from any fish and fisheries license, stamp, permit, or
34 application fee as provided in this title, unless otherwise provided shall be [credited]:

35 (1) CREDITED to the Fund; and

1 (2) [used] USED only for [the]:

2 (I) THE scientific investigation, protection, propagation, and
3 management of nontidal finfish; AND

4 (II) ADMINISTRATIVE COSTS CALCULATED IN ACCORDANCE WITH §
5 1-103(B)(2) OF THIS ARTICLE.

6 4-209.

7 (a) There is a Fisheries Research and Development Fund in the Department.

8 (b) Any money the State Comptroller receives under the provisions of this title
9 from commercial licenses, permits, and service fees, taxes, and royalties paid to the
10 State for oyster shells and clam shells removed from the bottom beneath the tidal
11 waters of the State, from the sale of seed oysters under § 4-1103 of this title, or any
12 source, together with any fine or forfeiture collected under § 4-1202 of this title, shall
13 be credited to the Fisheries Research and Development Fund.

14 (c) Subject to the limitations described in §§ 4-701(i), 4-1020, 4-1028 and
15 4-1035, the Fund shall be used for [replenishing]:

16 (1) REPLENISHING fisheries resources[,] AND related research[, and to
17 match];

18 (2) MATCHING federal funds available for research and development of
19 fisheries resources; AND

20 (3) ADMINISTRATIVE COSTS CALCULATED IN ACCORDANCE WITH §
21 1-103(B)(2) OF THIS ARTICLE.

22 5-103.

23 (d) (1) If the constructing agency is unable to locate a sufficient amount of
24 State or other publicly owned land or available forest mitigation bank credits to
25 comply with the requirements of subsection (c) of this section, the constructing agency
26 shall contribute money, at the rate of 10 cents per square foot of the area of required
27 planting, to a special fund to be maintained in the Department and to be known as
28 the Reforestation Fund.

29 (2) There is a Reforestation Fund in the Department.

30 (e) (1) Money deposited in the Reforestation Fund:

31 (i) Shall remain in the Fund until appropriated and spent; and

32 (ii) May not revert to the General Fund.

33 (2) (i) 1. Except as provided in item 2 of this subparagraph AND
34 SUBPARAGRAPH (III) OF THIS PARAGRAPH, the Department shall use the
35 Reforestation Fund solely to plant trees on State or other publicly owned lands

1 5-212.

2 (A) There is a Forest or Park Reserve Fund in the Department.

3 (B) Any money obtained from the State forest reserves, State parks, scenic
4 reserves, parkways, historic monuments, and recreation areas, together with any fine
5 collected under § 5-1302 of this title, shall be paid into the Fund.

6 (C) (1) (I) Each county in which any State forest or park reserve is located
7 shall be paid annually out of the Fund 15 percent of the revenue derived from the
8 State forest or park reserve located in that county.

9 (II) Each county in which the forest or park reserve comprises 10
10 percent or more of the total land area of that county shall be paid annually out of the
11 Fund a sum equal to 25 percent of the revenues derived from the State forest or park
12 reserve located in that county.

13 (2) MONEYS IN THE FUND MAY BE USED FOR ADMINISTRATIVE COSTS
14 CALCULATED IN ACCORDANCE WITH § 1-103(B)(2) OF THIS ARTICLE.

15 5-212.1.

16 (a) (1) In this section, "concession operations" means activities within a
17 State forest or park that:

- 18 (i) Raise revenue;
- 19 (ii) Function under a separate budget system; and
- 20 (iii) Supplement the operation of the facility where it is located.

21 (2) "Concession operations" includes:

- 22 (i) Food concessions;
- 23 (ii) Boat rentals;
- 24 (iii) Gift shops;
- 25 (iv) Marine sales;
- 26 (v) Snack bars; and
- 27 (vi) Camp stores.

28 (b) There is a Forest and Park Concession Account in the Department.

29 (c) Any money derived from concession operations shall be paid into the
30 Forest and Park Concession Account.

1 (d) Each county in which any State forest or park is located shall be paid
2 annually out of the Forest and Park Concession Account:

3 (1) If the State forest or park reserve comprises less than 10% of the total
4 land area of the county, a sum equal to 15% of the net revenue derived from
5 concession operations within a State forest or park located in that county; and

6 (2) If the State forest or park reserve comprises 10% or more of the total
7 land area of the county, a sum equal to 25% of the net revenue derived from
8 concession operations within a State forest or park located in that county.

9 (e) Except as provided in subsection (d) of this section, the Forest and Park
10 Concession Account shall be used only for [the]:

11 (1) [Maintenance] THE MAINTENANCE and operation of concession
12 operations; [and]

13 (2) [Function] THE FUNCTION of State forests and parks to the extent of
14 the projected balance of the Account from the prior fiscal year; AND

15 (3) ADMINISTRATIVE COSTS CALCULATED IN ACCORDANCE WITH §
16 1-103(B)(2) OF THIS ARTICLE.

17 (f) The budget submitted by the Governor to the General Assembly shall
18 include the revenues and expenditures of the Forest and Park Concession Account in
19 the same detail as other special fund accounts administered by the Department.

20 5-215.

21 (a) There is a Deep Creek Lake Recreation Maintenance and Management
22 Fund in the Department for the maintenance and management of the land,
23 recreational facilities, and services that are related to Deep Creek Lake in Garrett
24 County.

25 (b) (1) Except as provided in [paragraph] PARAGRAPHS (2) AND (3) of this
26 subsection, the Department shall pay all fees collected for boat launching at Deep
27 Creek Lake State Park, and all funds collected from lake and buffer use permits,
28 contracts, grants, and gifts as a result of the Deep Creek Lake management program,
29 into the Deep Creek Lake Recreation Maintenance and Management Fund.

30 (2) At the end of each quarter of the fiscal year, the Department shall
31 pay 25% of the total revenue collected during the quarter under paragraph (1) of this
32 subsection to the Board of County Commissioners of Garrett County.

33 (3) MONEYS IN THE DEEP CREEK LAKE RECREATION MAINTENANCE
34 AND MANAGEMENT FUND MAY BE USED FOR ADMINISTRATIVE COSTS CALCULATED
35 IN ACCORDANCE WITH § 1-103(B)(2) OF THIS ARTICLE.

1 5-307.

2 (a) There is a special fund known as the Woodland Incentives Fund.

3 (b) The Woodland Incentives Fund shall consist of:

4 (1) As provided in § 13-306 of the Tax - Property Article, up to \$200,000
5 annually of the proceeds of the tax imposed by § 13-302 of the Tax - Property Article
6 that are attributable to the taxation of instruments of writing that transfer title to
7 parcels of land that are entirely woodland; and

8 (2) Revenues collected by the Department from the payment of charges
9 imposed for Department assistance in implementation of an approved practice.

10 (c) The Department shall use the Woodland Incentives Fund [to]:

11 (1) TO help fund the Woodland Incentives Program and the cost-share
12 assistance provided for in this subtitle; AND

13 (2) FOR ADMINISTRATIVE COSTS CALCULATED IN ACCORDANCE WITH §
14 1-103(B)(2) OF THIS ARTICLE.

15 (d) Any unexpended funds remaining in the Woodland Incentives Fund at the
16 end of the fiscal year may not revert to the General Fund of the State.

17 5-908.

18 (A) There is a Fair Hill Improvement Fund in the Department, to be used for
19 the operation, maintenance, development, and improvement of the Fair Hill facilities
20 at Fair Hill, Maryland.

21 (B) (1) Any money obtained by the Department from Fair Hill shall be
22 credited to the Fair Hill Improvement Fund.

23 (2) MONEYS IN THE FAIR HILL IMPROVEMENT FUND MAY BE USED FOR
24 ADMINISTRATIVE COSTS CALCULATED IN ACCORDANCE WITH § 1-103(B)(2) OF THIS
25 ARTICLE.

26 5-908.1.

27 (A) There is a Somers Cove Marina Improvement Fund in the Department, to
28 be used for the operation, maintenance, development, and improvement of the Somers
29 Cove Marina facilities in Crisfield, Maryland.

30 (B) (1) Any money obtained by the Department from Somers Cove Marina
31 shall be credited to the Somers Cove Marina Improvement Fund.

32 (2) MONEYS IN THE SOMERS COVE MARINA IMPROVEMENT FUND MAY
33 BE USED FOR ADMINISTRATIVE COSTS CALCULATED IN ACCORDANCE WITH §
34 1-103(B)(2) OF THIS ARTICLE.

1 5-909.

2 (A) The Natural Resources Property Maintenance Fund is created within the
3 Department to be used for the maintenance, repair, and management of property
4 owned by the Department.

5 (B) MONEYS IN THE FUND MAY BE USED FOR ADMINISTRATIVE COSTS
6 CALCULATED IN ACCORDANCE WITH § 1-103(B)(2) OF THIS ARTICLE.

7 5-1501.

8 There is a Heritage Conservation Fund in the Department.

9 5-1505.

10 (A) Appropriations for the Heritage Conservation Fund may be provided from:

11 (1) Special bond authorization;

12 (2) General funds of the State; and

13 (3) Other sources.

14 (B) MONEYS IN THE FUND MAY BE USED FOR ADMINISTRATIVE COSTS
15 CALCULATED IN ACCORDANCE WITH § 1-103(B)(2) OF THIS TITLE.

16 8-710.2.

17 (a) The Department may design temporary certificates of boat number and
18 furnish them to any licensed boat dealer who:

19 (1) Applies for at least 25 of the certificates on a form that the
20 Administration requires; and

21 (2) Submits the fee, not to exceed \$1, set by the Department for each
22 certificate with the application.

23 (b) (1) For any vessel that is to be used principally in Maryland, a licensed
24 dealer may issue 1 temporary certificate of boat number to the person who buys the
25 vessel from the dealer.

26 (2) A dealer may not issue a temporary certificate of boat number unless:

27 (i) The taxes and other fees as required by this subtitle are paid to
28 the dealer; and

29 (ii) An application for Maryland certificate of boat title and number
30 or a purchaser's application for transfer of a Maryland certificate of boat title is
31 completed and signed by the purchaser of the vessel.

1 (3) (i) Before issuing a temporary certificate of boat number, the
2 dealer shall complete the certificate by writing in the information required by the
3 Department.

4 (ii) A temporary certificate of boat number is not valid unless the
5 dealer completes the certificate as required by this subsection.

6 (4) The dealer may not issue more than 1 temporary certificate for any
7 vessel. If the temporary certificate is lost, stolen, or destroyed, the owner must apply
8 to the Department for a certificate of boat number.

9 (5) Within 30 days after a dealer issues a temporary certificate of boat
10 number, the dealer shall mail a copy of the temporary certificate to the Department.

11 (c) A temporary certificate of boat number expires when the first of either of
12 the following occurs:

13 (1) A certificate of boat number for the vessel is issued by the
14 Department; or

15 (2) 90 days expire from the date the temporary certificate was issued by
16 the dealer.

17 (d) (1) (I) There is a special fund called the Boat Dealer Assurance Fund.

18 (II) All fees collected by the Department under this section shall be
19 credited to the Fund.

20 (2) The Fund shall be used exclusively as provided in this subsection
21 [to]:

22 (I) TO pay title taxes and fees that boat dealers and manufacturers
23 have failed to forward to the Department; AND

24 (II) FOR ADMINISTRATIVE COSTS CALCULATED IN ACCORDANCE
25 WITH § 1-103(B)(2) OF THIS ARTICLE.

26 (3) A payment may be made under this section only if:

27 (i) A member of the public demonstrates that title taxes and
28 application fees were paid to a dealer and a manufacturer; and

29 (ii) The dealer or manufacturer has failed to forward the taxes and
30 fees to the Department as required by this subtitle.

31 (4) Attainments to the Fund in excess of an accumulated balance of
32 \$100,000 may be expended by the Department for any purpose authorized under §
33 8-723 of this subtitle. However, any funds not expended pursuant to this subsection
34 or § 8-723 of this subtitle:

35 (i) Shall remain in the Fund; and

1 (ii) May not revert to the General Fund.

2 (e) In addition to any other sanction under this subtitle, on failure of a dealer
3 to forward to the Department taxes and fees within 30 days of collection, the
4 Department may declare forfeited the bond or other security filed by the dealer under
5 this subtitle. The Department shall use funds collected through the forfeiture to
6 reimburse the Boat Dealer Assurance Fund for the expense of paying title taxes and
7 fees in accordance with this section.

8 (f) The Department may require the return of all temporary certificates from
9 any dealer who has not complied with any provision of this subtitle.

10 8-723.

11 (a) Any fee and other revenue the Department collects under authority of this
12 subtitle, and any other available income, shall be deposited in the State Treasury and
13 used exclusively for the administration, functions, and objectives of this subtitle.
14 These funds are credited to the Department.

15 (b) (1) The Department may use the funds credited to its accounts to
16 purchase, rent, and operate any equipment necessary to accomplish the purposes of
17 this subtitle, within budgetary limitations.

18 (2) THE FUNDS MAY BE USED FOR ADMINISTRATIVE COSTS
19 CALCULATED IN ACCORDANCE WITH § 1-103(B)(2) OF THIS ARTICLE.

20 (c) Subject to available income, the Department may employ necessary
21 personnel subject to the provisions of the State Personnel and Pensions Article.

22 (d) Within the limits of funds available, the Department may enter into any
23 agreement with the federal government, any municipality or other political
24 subdivision of the State, or any private agency to share the cost of any development,
25 construction, or improvement of waterways or of facilities determined to have
26 beneficial value to the boating public.

27 8-729.

28 (a) Unless excepted by § 8-728 of this subtitle, a security interest in a vessel is
29 not valid against creditors of the owner or subsequent transferees or secured parties
30 of the vessel unless perfected as provided under §§ 8-729 through 8-732 of this
31 subtitle.

32 (b) A security interest is perfected by the delivery to the Department of the
33 existing certificate of title, if any, and an application for certificate of title on a form
34 provided or approved by the Department containing information regarding the
35 security interest, and upon payment of a filing fee of \$15. Four dollars of this filing fee
36 shall be treated as described in § 8-723 of this subtitle. The security interest is
37 perfected at the time of the delivery and payment.

1 (c) If a vessel is already subject to a security interest when the vessel is
2 brought into the State, the validity of the security interest in the State is to be
3 determined by the law (including the conflict of law rules) of the jurisdiction where
4 the vessel was when the security interest attached, subject to the following:

5 (1) If the parties to the transaction understood at the time the security
6 interest attached that the vessel would be kept in the State, and the vessel was
7 brought into the State within 30 days after the security interest attached for purposes
8 other than transportation through the State, the validity of the security interest in
9 the State is to be determined by the law of the State.

10 (2) If the security interest was perfected already under the laws of the
11 jurisdiction where the vessel was when the security interest attached and before
12 being brought into the State:

13 (i) If the name of the secured party is shown on an existing
14 certificate of title issued by that jurisdiction, the security interest continues perfected
15 in the State.

16 (ii) If the name of the secured party is not shown on an existing
17 certificate of title issued by that jurisdiction, and if the law of that jurisdiction does
18 not provide for certificates of title disclosing security interests, the security interest
19 continues perfected in the State for 4 months and, after that time, if within the
20 4-month period the security interest is perfected in the State. This security interest
21 may also be perfected in the State after the expiration of the 4-month period, in
22 which case perfection dates from the time of perfection in the State.

23 (iii) If the security interest was not perfected under the law of the
24 jurisdiction in which the vessel was when the security interest attached before being
25 brought into the State, the security interest may be perfected in the State; in which
26 case perfection dates from the time of perfection in the State.

27 (d) (1) Five dollars of this filing fee, which is in lieu of a recordation tax
28 imposed under Title 12 of the Tax - Property Article, shall be deposited in a special
29 fund which is created. These moneys shall be used for the benefit of the counties of
30 the State, and Baltimore City, and distribution of this fund shall be made to the
31 several counties and Baltimore City annually on the basis of the residence of the
32 purchasers of the vessels.

33 (2) **MONEYS IN THE SPECIAL FUND MAY BE USED FOR ADMINISTRATIVE**
34 **COSTS CALCULATED IN ACCORDANCE WITH § 1-103(B)(2) OF THIS ARTICLE.**

35 (e) Six dollars of every fee received under the provisions of § 8-730 of this
36 subtitle shall be deposited in the General Fund.

37 8-1004.

38 (a) The operating budget of the Department may contain an appropriation
39 from the Fund sufficient to provide technical and administrative services required to
40 implement §§ 8-1002 and 8-1003 of this subtitle, including but not limited to:

- 1 (1) Review and evaluation of requests for assistance in shore erosion
2 control;
- 3 (2) Supervision over construction of approved projects; and
- 4 (3) Inspection of completed projects to insure adequate maintenance.

5 (b) Costs of the services enumerated in this section:

- 6 (1) Shall be reimbursed to the Department by the property owner; and
- 7 (2) May not be considered part of the construction cost of the project.

8 (C) MONEYS IN THE FUND MAY BE USED FOR ADMINISTRATIVE COSTS
9 CALCULATED IN ACCORDANCE WITH § 1-103(B)(2) OF THIS ARTICLE.

10 8-1005.

11 (a) (1) There is a "Shore Erosion Control Construction Loan Fund". The
12 Department shall administer the Fund to provide interest-free loans or grants to
13 persons, municipalities, or counties for design and construction of shore erosion
14 control projects. The Fund shall be maintained by:

15 (i) Repayments of principal on loans made from the Fund, with the
16 repayments made through a benefit charge the State levies on privately owned
17 property benefited by shore erosion control projects. The benefit charge shall
18 compensate the State for net project construction cost. The benefit charge shall be
19 levied at a uniform rate over a period not exceeding 25 years;

20 (ii) Repayment of administrative costs under § 8-1004 of this
21 subtitle; and

22 (iii) Annual appropriation of funds to restore the Fund to a level
23 sufficient to carry out an effective shore erosion control construction loan program
24 during the succeeding year.

25 10-209.

26 (A) There is a State Wildlife Management and Protection Fund in the
27 Department.

28 (B) Any money accruing to the Fund from any license, stamp, application, or
29 permit fee provided in this title shall be credited, unless otherwise provided, to this
30 Fund and used only for [the]:

31 (1) THE scientific investigation, protection, propagation, and
32 management of wildlife; AND

33 (2) ADMINISTRATIVE COSTS CALCULATED IN ACCORDANCE WITH §
34 1-103(B)(2) OF THIS ARTICLE.

1 10-301.

2 (n) (1) There is an Upland Wildlife Habitat Fund in the Department.

3 (2) The Fund consists of:

4 (i) Voluntary contributions made to the Upland Wildlife Habitat
5 Fund at the time of purchase of a hunting license under this section; and

6 (ii) Any other donations made to the Fund.

7 (3) The Secretary shall administer the Fund.

8 (4) The Fund may be used only as provided in this subsection.

9 (5) The Fund is a special, nonlapsing fund that is not subject to § 7-302
10 of the State Finance and Procurement Article.

11 (6) The Fund shall be invested and reinvested in the same manner as
12 other State funds. Any investment earnings of the Fund may not be transferred or
13 revert back to the General Fund, but shall remain in the Fund to be used for purposes
14 specified in this subsection.

15 (7) The Secretary shall use the Fund to:

16 (i) Provide cost-share assistance to landowners for planting
17 upland wildlife habitat;

18 (ii) Provide matching funds to acquire grant funding for upland
19 wildlife habitat programs;

20 (iii) Hire contractual staff to implement upland wildlife habitat
21 programs in the State; [and]

22 (iv) Promote the Upland Wildlife Habitat Fund and upland wildlife
23 habitat programs; AND

24 (V) COVER ADMINISTRATIVE COSTS CALCULATED IN ACCORDANCE
25 WITH § 1-103(B)(2) OF THIS ARTICLE.

26 (8) The Secretary may prioritize the duties under paragraph (7) of this
27 subsection to maximize the effectiveness of upland wildlife habitat programs.

28 (9) A designated person who sells hunting licenses under this section and
29 who also collects donations for the Upland Wildlife Habitat Fund may retain as
30 compensation 10% of each donation the person receives.

31 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
32 October 1, 2004.