
By: **Senator Della**

Introduced and read first time: March 7, 2005

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **State Government - Maryland Port Administration**

3 FOR the purpose of repealing certain provisions of law designating the Maryland Port
4 Administration as a unit in the Department of Transportation and establishing
5 it as an independent unit of State government; specifying that the head of the
6 Administration is the Executive Director of the Maryland Port Administration;
7 providing for the appointment, term, and removal of the Executive Director;
8 authorizing the Executive Director to employ a staff; requiring the Attorney
9 General to assign a certain number of assistant attorneys general to perform
10 certain duties for the Administration; specifying certain powers and duties of
11 the Executive Director; authorizing and requiring the Executive Director to
12 adopt certain regulations; specifying and altering certain powers and duties of
13 the Administration; establishing the Maryland Port Administration Fund as a
14 special, nonlapsing fund; specifying the contents, purpose, and permitted use of
15 the Fund; altering and repealing certain duties and powers of the Maryland Port
16 Commission and the chairman of the Commission; altering the composition of
17 the Commission; requiring that the Executive Director of the Administration be
18 the chairman of the Commission; altering the composition of the Advisory
19 Council for Port Land Use Development; requiring that the Executive Director
20 of the Administration or the Executive Director's nominee be the chairman of
21 the Advisory Council; expanding the application of certain provisions of law
22 authorizing certain State employees to engage in collective bargaining to include
23 all employees of the Administration; providing that for each fiscal year, certain
24 amounts of certain funds of the Transportation Trust Fund shall be transferred
25 and credited to a certain fund; specifying that all employees of the
26 Administration are in the State Personnel Management System; providing for
27 the transfer of certain employees in the Department of Transportation Human
28 Resources Management System to the State Personnel Management System;
29 stating the intent of the General Assembly with respect to who should serve as
30 the Executive Director of the Administration until the Governor's appointment
31 to the position is confirmed; requiring the publishers of the Annotated Code of
32 Maryland, in consultation with the Department of Legislative Services, to
33 correct certain agency names and titles throughout the Annotated Code; making
34 certain conforming and stylistic changes; and generally relating to the Maryland
35 Port Administration.

1 BY repealing and reenacting, with amendments,
2 Article - Transportation
3 Section 1-101(i), 2-103(b), (f), and (g), 2-107(a), 6-101, 6-102(f), and 6-102.1(b)
4 and (c); 6-201 and 6-201.2 to be under the amended subtitle "Subtitle 3.
5 Maryland Port Commission"; 6-204, 6-204.1, 6-205, 6-206, 6-211, and
6 6-213; 6-402, 6-403, 6-406, 6-408, and 6-410 to be under the amended
7 subtitle "Subtitle 6. Port of Baltimore"; and 6-501 through 6-504 to be
8 under the amended subtitle "Subtitle 7. Port Land Use Development"
9 Annotated Code of Maryland
10 (2001 Replacement Volume and 2004 Supplement)

11 BY repealing
12 Article - Transportation
13 Section 2-110, 6-201.1, 6-202, and 6-203
14 Annotated Code of Maryland
15 (2001 Replacement Volume and 2004 Supplement)

16 BY adding to
17 Article - Transportation
18 Section 3-216(f)(3); 6-201 through 6-207, inclusive, to be under the new subtitle
19 "Subtitle 2. Organization of Administration; General Duties and Powers of
20 Executive Director"; and "Subtitle 4. Powers of Administration;
21 Miscellaneous Provisions" to immediately precede Section 6-401
22 Annotated Code of Maryland
23 (2001 Replacement Volume and 2004 Supplement)

24 BY repealing and reenacting, with amendments,
25 Article - State Finance and Procurement
26 Section 2-107(c)(2)
27 Annotated Code of Maryland
28 (2001 Replacement Volume and 2004 Supplement)

29 BY repealing and reenacting, with amendments,
30 Article - State Government
31 Section 2-10A-07(f) and 12-401
32 Annotated Code of Maryland
33 (2004 Replacement Volume)

34 BY repealing and reenacting, with amendments,
35 Article - State Personnel and Pensions
36 Section 3-102
37 Annotated Code of Maryland
38 (2004 Replacement Volume)

1 BY renumbering
 2 Article - Transportation
 3 Section 6-207 through 6-210, 6-212, and 6-212.1, respectively; 6-301 through
 4 6-309, respectively, and the subtitle "Subtitle 3. Acquisition and Operation
 5 of Port Facilities"; 6-401, 6-404, 6-405, 6-407, 6-409, and 6-411,
 6 respectively; and 6-601 and 6-602, respectively, and the subtitle "Subtitle
 7 6. Liberal Construction; Penalties"
 8 to be Section 6-405 through 6-408, 6-410, and 6-411, respectively; 6-501
 9 through 6-509, respectively, and the subtitle "Subtitle 5. Acquisition and
 10 Operation of Port Facilities"; 6-601, 6-604, 6-605, 6-607, 6-609, and
 11 6-611, respectively; and 6-801 and 6-802, respectively, and the subtitle
 12 "Subtitle 8. Liberal Construction; Penalties"
 13 Annotated Code of Maryland
 14 (2001 Replacement Volume and 2004 Supplement)

15 **Preamble**

16 WHEREAS, The vitality of Maryland's port facilities is essential to the economic
 17 well-being of the State; and

18 WHEREAS, The Port of Baltimore and the other port facilities in the State are
 19 the direct and indirect employers of thousands of residents of the State; and

20 WHEREAS, The State is committed to retaining and expanding national and
 21 international shipping business at the Port of Baltimore and the other port facilities
 22 in the State; and

23 WHEREAS, Maintaining and enhancing the security of port facilities in the
 24 State is of vital concern and importance to the safety of the residents of the State; and

25 WHEREAS, In order to ensure the security of port facilities in the State and
 26 preserve and enhance their ability to compete for national and international shipping
 27 business, it is critical that the State agency charged with operating and overseeing
 28 the port facilities has the authority to make essential decisions about personnel and
 29 other resources that affect the functioning of the port facilities; now, therefore,

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

32 **Article - Transportation**

33 1-101.

34 (i) "Modal administration" means any of the following:

35 (1) The State Aviation Administration;

36 (2) [The Maryland Port Administration;

- 1 (3) The Maryland Transit Administration;
- 2 [(4)] (3) The State Highway Administration; or
- 3 [(5)] (4) The Motor Vehicle Administration.

4 2-103.

5 (b) Except with respect to the Maryland Transportation Authority, [the
6 Maryland Port Commission and the Maryland Port Administration,] the Secretary:

7 (1) May adopt rules and regulations for the Department and any of its
8 units to carry out those provisions of this article that are subject to the jurisdiction of
9 the Department; and

10 (2) Shall review and may approve, disapprove, or revise the rules and
11 regulations of each unit in the Department.

12 (f) (1) Except as provided in paragraph (2) of this subsection, the Secretary
13 may transfer, assign, and reassign any staff, power, or duty from any unit in the
14 Department to his office or to another unit in the Department. If a transfer,
15 assignment, or reassignment occurs, the appropriation for the respective staff, power,
16 or duty also shall be transferred.

17 (2) This subsection does not apply to:

18 (i) The powers or duties of the State Roads Commission that are
19 set forth in Article III, § 40B of the State Constitution; or

20 (ii) The powers or duties that are vested by law in:

- 21 1. The Board of Airport Zoning Appeals;
- 22 2. The Transportation Professional Services Selection Board;
- 23 3. The Maryland Transportation Authority; OR
- 24 4. The Board of Review of the Department[]; or
- 25 5. The Maryland Port Commission and Maryland Port
26 Administration].

27 (g) (1) Except as provided in paragraph (2) of this subsection, the Secretary
28 may exercise or perform any power or duty that any unit in the Department may
29 exercise or perform.

30 (2) This subsection does not apply to:

31 (i) The powers or duties that are set forth in Article III, § 40B of
32 the State Constitution; or

1 (ii) The powers or duties that do not require by law the approval or
2 action of the Secretary and are vested by law in:

- 3 1. The Board of Airport Zoning Appeals;
- 4 2. The Transportation Professional Services Selection Board;
- 5 3. The Maryland Transportation Authority; OR
- 6 4. The Board of Review of the Department[; or
- 7 5. The Maryland Port Commission and Maryland Port
8 Administration].

9 2-107.

10 (a) The following units are in the Department:

- 11 (1) Maryland Aviation Administration;
- 12 (2) [Maryland Port Administration;
- 13 (3)] Maryland Transit Administration;
- 14 [(4)] (3) State Highway Administration;
- 15 [(5)] (4) Motor Vehicle Administration;
- 16 [(6)] (5) Board of Airport Zoning Appeals;
- 17 [(7)] (6) State Roads Commission;
- 18 [(8)] (7) Transportation Professional Services Selection Board; and
- 19 [(9)] (8) Maryland Transportation Commission.

20 [2-110.

21 The Department may enter into contracts for the provision of waterborne
22 marine fire protection and related waterborne emergency services to port facilities, as
23 defined in § 6-101 of this article, and to vessels that are in any of the navigable
24 waters of this State within the territorial jurisdiction of the Maryland Port
25 Administration.]

26 3-216.

27 (f) (3) (I) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, FOR EACH
28 FISCAL YEAR, OF THE FUNDS IN THE TRANSPORTATION TRUST FUND THAT HAVE NOT
29 BEEN PLEDGED OR OTHERWISE COMMITTED TO THE PAYMENT OF OR AS SECURITY
30 FOR THE PAYMENT OF ANY BONDS OR DEBT ISSUED OR INCURRED UNDER THIS
31 ARTICLE, THERE SHALL BE TRANSFERRED AND CREDITED TO THE MARYLAND PORT

1 ADMINISTRATION FUND ESTABLISHED UNDER § 6-207 OF THIS ARTICLE, ON OR
2 BEFORE JUNE 30 OF THAT FISCAL YEAR, AN AMOUNT EQUAL TO TWO-THIRDS OF THE
3 INCOME TAX REVENUE DISTRIBUTED TO THE TRANSPORTATION TRUST FUND FOR
4 THAT FISCAL YEAR UNDER § 2-614 OF THE TAX - GENERAL ARTICLE.

5 (II) THE AMOUNTS TRANSFERRED AND CREDITED TO THE
6 MARYLAND PORT ADMINISTRATION FUND UNDER SUBPARAGRAPH (I) OF THIS
7 PARAGRAPH FOR ANY FISCAL YEAR SHALL BE AVAILABLE FOR APPROPRIATION
8 FROM THE MARYLAND PORT ADMINISTRATION FUND IN THAT FISCAL YEAR.

9 6-101.

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

11 (b) "Administration" means the Maryland Port Administration.

12 (c) "Commission" means the Maryland Port Commission.

13 (d) "Executive Director" means the Executive Director of the Maryland Port
14 Administration.

15 (e) "Port facility" includes any one or more or combination of:

16 (1) Lands, piers, docks, wharves, warehouses, sheds, transit sheds,
17 elevators, compressors, refrigeration storage plants, buildings, structures, and other
18 facilities, appurtenances, and equipment useful or designed for use in connection with
19 the operation of a port;

20 (2) Every kind of terminal or storage structure or facility useful or
21 designed for use in handling, storing, loading, or unloading freight or passengers at
22 marine terminals;

23 (3) Every kind of transportation facility useful or designed for use in
24 connection with any of these; and

25 (4) An international trade center constituting a facility of commerce and
26 consisting of one or more buildings, structures, improvements, and areas that the
27 [Department] ADMINISTRATION considers necessary, convenient, or desirable for the
28 centralized accommodation of functions, activities, and services for or incidental to
29 the transportation of persons by water, the exchange, buying, selling, and
30 transportation of commodities and other property in international and national
31 waterborne trade and commerce, the promotion and protection of this trade and
32 commerce, and governmental services related to them and other federal, state, and
33 municipal agencies and services, including foreign trade zones, offices, marketing and
34 exhibition facilities, terminal and transportation facilities, customhouses, custom
35 stores, inspection and appraisal facilities, parking areas, commodity and security
36 exchanges, and, in the case of buildings, structures, improvements, and areas in
37 which such accommodation is afforded, all the buildings, structures, improvements,
38 and areas, although other parts of the buildings, structures, improvements, and areas
39 might not be devoted to purposes of the international trade center other than the

1 production of incidental revenue available for the expenses and financial obligations
2 of the [Department] ADMINISTRATION in connection with the international trade
3 center and although other parts of the buildings, structures, improvements, and areas
4 might be rented or leased for the use or occupancy of departments, bureaus, units, or
5 agencies of the United States, this State, or any political subdivision of this State.

6 (f) "Project" means any port facility acquired, constructed, controlled, or
7 operated by the Administration, including all property acquired for the construction
8 or operation of the port facility.

9 6-102.

10 (f) In order to meet increased competition from other states' ports that are
11 operated with public funds either directly as state agencies or indirectly as private
12 operating companies, the Administration should have the authority[, subject to
13 approval of the Commission,] to operate public port facilities either directly or
14 indirectly in the form and manner that the [Commission] ADMINISTRATION deems
15 necessary.

16 6-102.1.

17 (b) This section does not apply to:

18 (1) Employees, contractors, independent contractors, or agents of the
19 [Maryland Port] Administration;

20 (2) Vessel employees, or employees of contractors or subcontractors that
21 attend vessels, who do not load or unload cargo between a vessel and a pier, or from
22 one stowage position to another on a vessel, at a marine facility; or

23 (3) Individuals or employees required by federal or State law to comply
24 with 49 CFR Parts 40 and 382 of the Federal Motor Carrier Safety Regulations.

25 (c) Persons that lease space at a marine facility from the [Maryland Port]
26 Administration shall implement a program that:

27 (1) Prohibits the sale, purchase, transfer, use, or possession of alcohol or
28 drugs at a port facility;

29 (2) Provides a plan that includes the nondiscriminatory administration
30 of tests for the presence of alcohol or drugs in accordance with established testing
31 procedures, including random, reasonable cause, post accident, and return-to-work,
32 or post treatment testing of safety-sensitive employees, and pre-employment test for
33 the presence of drugs, of employees;

34 (3) Provides for rehabilitation programs and disciplinary and sanction
35 procedures for individuals who violate the Program;

36 (4) Provides sufficient notice to employees of testing procedures, consent,
37 and other requirements of the Program;

1 (5) Provides adequate security measures for collection, chain of custody,
2 and handling of test material; and

3 (6) Establishes procedures for the reporting, review, and appeal of test
4 results.

5 SUBTITLE 2. ORGANIZATION OF ADMINISTRATION; GENERAL DUTIES AND POWERS
6 OF EXECUTIVE DIRECTOR.

7 6-201.

8 (A) (1) THERE IS A MARYLAND PORT ADMINISTRATION.

9 (2) THE ADMINISTRATION IS AN INDEPENDENT UNIT OF STATE
10 GOVERNMENT.

11 (B) THE HEAD OF THE ADMINISTRATION IS THE EXECUTIVE DIRECTOR OF
12 THE MARYLAND PORT ADMINISTRATION.

13 (C) THE EXECUTIVE DIRECTOR SHALL CONTROL AND SUPERVISE THE
14 ADMINISTRATION.

15 6-202.

16 (A) (1) THE GOVERNOR SHALL APPOINT THE EXECUTIVE DIRECTOR WITH
17 THE ADVICE AND CONSENT OF THE SENATE.

18 (2) THE EXECUTIVE DIRECTOR SHALL SERVE FOR A TERM OF 4 YEARS.

19 (3) THE EXECUTIVE DIRECTOR IS DIRECTLY RESPONSIBLE TO THE
20 GOVERNOR.

21 (4) THE EXECUTIVE DIRECTOR SHALL ADVISE THE GOVERNOR ON ALL
22 MATTERS ASSIGNED TO THE ADMINISTRATION.

23 (5) THE EXECUTIVE DIRECTOR MAY BE REMOVED BY THE GOVERNOR
24 FOR:

25 (I) MALFEASANCE;

26 (II) INCOMPETENCE; OR

27 (III) FAILURE TO CARRY OUT THE DUTIES OF OFFICE IN A MANNER
28 CONSISTENT WITH THE PURPOSES AND REQUIREMENTS OF THIS TITLE.

29 (B) (1) THE EXECUTIVE DIRECTOR IS RESPONSIBLE FOR THE OPERATION OF
30 THE ADMINISTRATION.

31 (2) THE EXECUTIVE DIRECTOR SHALL:

1 (I) EXERCISE THE POWERS AND PERFORM THE DUTIES OF THE
2 ADMINISTRATION UNDER THIS SUBTITLE;

3 (II) ORGANIZE THE ADMINISTRATION TO FUNCTION EFFICIENTLY
4 AND EFFECTIVELY; AND

5 (III) ESTABLISH IN THE ADMINISTRATION UNITS NECESSARY FOR
6 THE EXERCISE OF THE POWERS AND PERFORMANCE OF THE DUTIES OF THE
7 ADMINISTRATION.

8 (3) THE EXECUTIVE DIRECTOR MAY ESTABLISH, REORGANIZE, OR
9 ABOLISH AREAS OF RESPONSIBILITY IN THE ADMINISTRATION AS NECESSARY TO
10 FULFILL THE DUTIES ASSIGNED TO THE EXECUTIVE DIRECTOR.

11 (C) THE EXECUTIVE DIRECTOR SHALL DEVOTE FULL TIME TO THE DUTIES OF
12 OFFICE.

13 (D) THE EXECUTIVE DIRECTOR SHALL BE IN THE EXECUTIVE SERVICE OF THE
14 STATE PERSONNEL MANAGEMENT SYSTEM AND IS ENTITLED TO COMPENSATION
15 UNDER THE EXECUTIVE PAY PLAN IN ACCORDANCE WITH THE STATE BUDGET.

16 6-203.

17 (A) IN ACCORDANCE WITH THE STATE BUDGET, THE EXECUTIVE DIRECTOR
18 MAY EMPLOY A STAFF.

19 (B) EXCEPT AS OTHERWISE PROVIDED BY LAW:

20 (1) ALL STAFF EMPLOYED BY THE EXECUTIVE DIRECTOR SHALL BE IN
21 THE STATE PERSONNEL MANAGEMENT SYSTEM; AND

22 (2) THE EXECUTIVE DIRECTOR SHALL APPOINT AND REMOVE ALL STAFF
23 IN ACCORDANCE WITH THE PROVISIONS OF THE STATE PERSONNEL AND PENSIONS
24 ARTICLE.

25 (C) THE EXECUTIVE DIRECTOR MAY REVIEW ANY PERSONNEL ACTION TAKEN
26 BY ANY UNIT IN THE ADMINISTRATION.

27 6-204.

28 (A) THE EXECUTIVE DIRECTOR SHALL ADOPT REGULATIONS FOR THE
29 ADMINISTRATION AND ITS UNITS.

30 (B) THE EXECUTIVE DIRECTOR MAY ADOPT REGULATIONS NECESSARY TO
31 CARRY OUT THE PROVISIONS OF LAW THAT ARE WITHIN THE JURISDICTION OF THE
32 EXECUTIVE DIRECTOR.

33 6-205.

34 (A) THE ATTORNEY GENERAL IS THE LEGAL ADVISOR TO THE
35 ADMINISTRATION.

1 (B) THE ATTORNEY GENERAL SHALL ASSIGN TO THE ADMINISTRATION THE
2 NUMBER OF ASSISTANT ATTORNEYS GENERAL AUTHORIZED BY LAW TO BE
3 ASSIGNED TO THE ADMINISTRATION.

4 (C) (1) THE ATTORNEY GENERAL SHALL DESIGNATE ONE OF THE
5 ASSISTANT ATTORNEYS GENERAL ASSIGNED TO THE ADMINISTRATION AS COUNSEL
6 TO THE ADMINISTRATION AND MAY NOT REASSIGN THAT INDIVIDUAL WITHOUT
7 CONSULTING WITH THE EXECUTIVE DIRECTOR.

8 (2) THE COUNSEL TO THE ADMINISTRATION SHALL HAVE ONLY THE
9 FOLLOWING DUTIES:

10 (I) TO GIVE THE LEGAL AID, ADVICE, AND COUNSEL REQUIRED BY
11 THE EXECUTIVE DIRECTOR OR ANY OTHER OFFICIAL OF THE ADMINISTRATION;

12 (II) TO SUPERVISE THE OTHER ASSISTANT ATTORNEYS GENERAL
13 ASSIGNED TO THE ADMINISTRATION; AND

14 (III) TO PERFORM FOR THE ADMINISTRATION THE DUTIES THAT
15 THE ATTORNEY GENERAL ASSIGNS.

16 (3) THE COUNSEL SHALL PERFORM THE DUTIES UNDER PARAGRAPH (2)
17 OF THIS SUBSECTION SUBJECT TO THE CONTROL AND SUPERVISION OF THE
18 ATTORNEY GENERAL.

19 6-206.

20 IN ADDITION TO ANY OTHER POWERS AND DUTIES PROVIDED BY LAW, THE
21 EXECUTIVE DIRECTOR:

22 (1) HAS THE POWERS AND AUTHORITY EXPRESSLY CONFERRED ON THE
23 EXECUTIVE DIRECTOR OR REASONABLY IMPLIED BY THIS TITLE;

24 (2) SHALL ENFORCE THIS TITLE; AND

25 (3) SHALL PERFORM THE DUTIES IMPOSED ON THE EXECUTIVE
26 DIRECTOR BY THIS TITLE.

27 6-207.

28 (A) IN THIS SECTION, "FUND" MEANS THE MARYLAND PORT ADMINISTRATION
29 FUND.

30 (B) THERE IS A MARYLAND PORT ADMINISTRATION FUND.

31 (C) THE PURPOSE OF THE FUND IS TO PAY ALL ADMINISTRATIVE,
32 OPERATIONAL, AND CAPITAL COSTS AND EXPENSES INCURRED BY THE
33 ADMINISTRATION THAT RELATE TO THE IMPLEMENTATION OF THIS TITLE.

34 (D) THE EXECUTIVE DIRECTOR SHALL ADMINISTER THE FUND.

1 (E) (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT
2 TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

3 (2) THE TREASURER SHALL HOLD THE FUND SEPARATELY, AND THE
4 COMPTROLLER SHALL ACCOUNT FOR THE FUND.

5 (F) THE FUND CONSISTS OF:

6 (1) ALL FEES, CHARGES, RENTALS, OR OTHER REVENUES PAID TO OR
7 COLLECTED OR RECEIVED BY THE ADMINISTRATION UNDER THIS TITLE;

8 (2) FUNDS TRANSFERRED AND CREDITED TO THE FUND UNDER §
9 3-216(F)(3) OF THIS ARTICLE;

10 (3) INCOME FROM INVESTMENTS THAT THE TREASURER MAKES FOR
11 THE FUND;

12 (4) MONEY APPROPRIATED IN THE STATE BUDGET TO THE FUND; AND

13 (5) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR THE
14 BENEFIT OF THE FUND.

15 (G) THE FUND MAY BE USED ONLY FOR THE PURPOSE STATED IN
16 SUBSECTION (C) OF THIS SECTION.

17 (H) (1) THE TREASURER SHALL INVEST THE MONEY OF THE FUND IN THE
18 SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.

19 (2) ANY INVESTMENT EARNINGS OF THE FUND SHALL BE PAID INTO
20 THE FUND.

21 (I) EXPENDITURES FROM THE FUND MAY BE MADE ONLY IN ACCORDANCE
22 WITH THE STATE BUDGET.

23 Subtitle [2.] 3. Maryland Port Commission [and Maryland Port Administration].

24 [6-201.] 6-301.

25 (a) There is a Maryland Port Commission.

26 (b) The Commission shall:

27 (1) Establish policies directed toward improving the competitive position
28 of the ports of Maryland within the international port industry;

29 (2) [Adopt] PROPOSE regulations for the operation of the Administration
30 in a competitive manner within the port industry;

31 (3) Exercise those powers granted to the Commission [and to the
32 Maryland Port Administration] by this title or by any other provision of law;

1 (4) Unless otherwise directed by the [Secretary] EXECUTIVE DIRECTOR,
2 serve as the board of directors of any private operating company created under this
3 title; and

4 (5) In carrying out the provisions of this subtitle, seek information and
5 advice from port labor and management groups.

6 (c) The Commission shall consist of 7 members, 6 of whom shall be appointed
7 by the Governor with the advice and consent of the Senate and the 7th shall be the
8 [Secretary of Transportation] EXECUTIVE DIRECTOR, who shall be the Chairman of
9 the Commission.

10 (d) (1) Subject to the provisions of paragraph (3) of this subsection, the
11 Governor may not appoint to the Commission:

12 (i) An officer or employee of the State;

13 (ii) A representative of any entity whose principal activities are
14 ports-related;

15 (iii) A person employed by any entity whose principal activities are
16 ports-related; or

17 (iv) A member of the General Assembly.

18 (2) The Governor shall take into consideration geographic representation
19 when appointing the 6 members of the Commission.

20 (3) Notwithstanding paragraph (1) of this subsection, a member of the
21 Maryland Transportation Authority or any other State board, commission, or
22 authority may be appointed a member of the [Maryland Port] Commission. Any
23 person so appointed who is compensated by the State is not entitled to any
24 compensation or other emolument, except expenses incurred in connection with
25 attendance at hearings, meetings, field trips, and working sessions, for any services
26 rendered as a Commissioner.

27 (e) (1) Each appointed member serves for a term of 3 years and until a
28 successor is appointed and qualifies. The terms of appointed members shall be
29 staggered as required by the original appointments to the Commission, 2 of which
30 shall be for 3 years, 2 of which shall be for 2 years, and 2 of which shall be for 1 year.

31 (2) A member appointed to fill a vacancy in an unexpired term serves
32 only for the remainder of that term or until a replacement is appointed.

33 (f) The Commission shall meet at a time and place designated by the
34 Chairman of the Commission. The Commission shall meet as often as its duties
35 require, but not less than quarterly. Attendance by 4 members shall constitute a
36 quorum.

1 (g) Except as provided under subsection (d)(3) of this section, members of the
2 Commission appointed by the Governor are entitled to the compensation and
3 expenses provided for in the State budget. Members of the Commission are subject to
4 the provisions of § 8-501 of the State Government Article.

5 [6-201.1.

6 (a) All actions of the Commission which, in the judgment of the Chairman,
7 impact upon the Transportation Trust Fund are subject to the approval of the
8 Chairman.

9 (b) The Chairman of the Commission shall:

10 (1) Subject to the approval of the Governor, appoint the Executive
11 Director of the Administration in accordance with § 15-501 of the State Government
12 Article; and

13 (2) Approve the Administration's budget before its submission to the
14 General Assembly as part of the Governor's proposed budget.

15 (c) The Chairman of the Commission may:

16 (1) Remove the Executive Director of the Administration; and

17 (2) While acting as Secretary of the Department, provide the
18 Commission and the Administration with the personnel of the Department that the
19 Secretary considers necessary to carry out the provisions of this title.]

20 [6-201.2.] 6-302.

21 (a) [(1) Subject to approval of the Administration's budget by the General
22 Assembly as provided in § 3-216 of this article and subject to State fiscal procedures,
23 including those governing budgeting, accounting, and auditing, the Commission may
24 adopt regulations establishing procedures for the approval and control of
25 Administration expenditures.

26 (2) The Commission shall present regulations proposed under this
27 subsection to the Board of Public Works for approval.

28 (b) The Commission may adopt any other regulations necessary to carry out
29 the provisions of this title.

30 (c) (1)] Subject to § 2-1246 of the State Government Article, the Commission
31 shall report by January 15 of each year to the General Assembly on the activities of
32 the [Port] Commission during the previous year.

33 [(2)] (B) The report shall include a review of the port's competitive
34 position during the previous year and any recommendations of the Commission for
35 future changes in legislation, capital funding, or operational flexibility for
36 consideration by the General Assembly.

1 [(3) The report shall also include any substantive changes in its
2 regulations for procurement and personnel.]

3 [6-202.

4 There is a Maryland Port Administration.]

5 [6-203.

6 (a) The head of the Administration is the Executive Director.

7 (b) (1) The Executive Director shall report directly to the Commission.

8 (2) Subject to the authority of the Commission, the Executive Director is
9 responsible for carrying out:

10 (i) The powers and duties vested by law in the Administration; and

11 (ii) The regulations adopted by the Commission.

12 (3) The Executive Director is entitled to the salary provided in the State
13 budget.]

14 SUBTITLE 4. POWERS OF ADMINISTRATION; MISCELLANEOUS PROVISIONS.

15 [6-204.] 6-401.

16 (a) In addition to the specific powers granted under this title, [and subject to
17 the supervision of the Commission,] the Administration has the powers granted by
18 this section.

19 (b) The Administration may sue and be sued in its own name.

20 (c) [The Administration may propose for adoption by the Commission
21 regulations to carry out the provisions of this title.

22 (d)] Either directly or by expert consultants, the Administration may make any
23 investigations and surveys, including:

24 (1) Studies of business conditions, freight rates, and port services;

25 (2) Physical surveys of the conditions of channels and structures;

26 (3) Studies of the need for additional port facilities to develop, improve,
27 and more speedily handle commerce; and

28 (4) Any other study, survey, or estimate necessary for the exercise of its
29 powers under this title.

30 [(e)] (D) The Administration may apply for and receive grants from any
31 federal agency for the planning, construction, operation, or financing of any port

1 facility and may receive aid or contributions of money, property, labor, or other things
2 of value from any source, to be held, used, and applied for the purposes for which the
3 grants, aid, and contributions are made.

4 [(f)] (E) The Administration may do anything necessary to promote and
5 increase commerce within its territorial jurisdiction, including:

6 (1) Purchasing advertising;

7 (2) Engaging in public relations programs;

8 (3) Publishing literature;

9 (4) Soliciting business by correspondence and traveling representatives;
10 and

11 (5) Cooperating with civic, technical, professional, and business
12 organizations and associations.

13 [(g)] (F) To increase the commerce of ports in this State, the Administration
14 may establish and maintain a traffic bureau or other office to investigate and seek
15 improvement in rates, rate structures, practices, and charges affecting these ports.

16 [(h)] (G) (1) Except as provided in paragraph (2) of this subsection, the
17 Administration may apply for the establishment, maintenance, and operation of
18 foreign trade zones within its territorial jurisdiction and may operate and maintain
19 these zones under the laws or regulations of the United States for the establishment,
20 operation, and maintenance of foreign trade zones in ports of entry of the United
21 States.

22 (2) The Administration may not apply for the establishment, operation,
23 and maintenance of a foreign trade zone unless it has the specific approval of the
24 Board of Public Works. Approval of the Board of Public Works shall be based on
25 information and advice, as received from the Department of Natural Resources, the
26 Department of Business and Economic Development, other interested agencies of this
27 State, and the county government of each involved county, on the potential effects of
28 the foreign trade zone on the water resources, fisheries, and economic life of this
29 State.

30 [(i)] (H) The Administration may acquire, construct, reconstruct, rehabilitate,
31 improve, maintain, lease as lessor or as lessee, repair, and operate either directly or
32 through State created private operating companies port facilities within its territorial
33 jurisdiction, including the dredging of ship channels and turning basins and the
34 filling and grading of land.

35 [(j)] (I) The Administration may designate the location and character of all
36 port facilities and improvements that the Administration holds, owns, or over which it
37 is authorized to act, and it may regulate all matters related to the location and
38 character of these facilities and improvements.

1 [(k)] (J) (1) In the exercise of its powers and the performance of its duties
2 under this title, the Administration may acquire and hold in its own name and may
3 lease, convey, or otherwise dispose of any property, including:

4 (i) Lands lying under water;

5 (ii) Riparian rights in and adjacent to lands; and

6 (iii) Property devoted to a public use in or near the navigable waters
7 within the territorial jurisdiction of the Administration.

8 (2) The acquisition by or on behalf of the Administration of personal
9 property to be used outside of this State is not subject to Title 4, Subtitle 3 of the State
10 Finance and Procurement Article requiring purchases through the Department of
11 General Services.

12 [(l)] (K) The Administration may fix, revise, charge, and collect rates, fees,
13 rentals, or other charges for the use of any project under its control.

14 [(m)] (L) The Administration may appear in its own behalf before any board,
15 commission, department, or agency of the federal government, of any state, or of any
16 international conference and before any committee of the Congress of the United
17 States or the General Assembly of Maryland, or any appropriate nongovernmental
18 body, in any matter:

19 (1) That relates to the design, establishment, construction, extension,
20 operation, improvement, repair, or maintenance of a project operated and maintained
21 by the Administration under this title;

22 (2) That relates to rail rates, water rates, port services and charges,
23 demurrage, switching, wharfage, towage, pilotage, differentials, discriminations,
24 labor relations, trade practices, river and harbor improvements, aids to navigation, or
25 permits for structures in navigable waters; or

26 (3) That affects the physical development or business interest of the
27 Administration and those it serves.

28 [(n)] (M) (1) The Administration may employ consulting engineers,
29 accountants, attorneys, construction and financial experts, superintendents,
30 traveling representatives, managers, clerks, stenographers, and laborers, and any
31 other agents, STAFF, and employees that it considers necessary to carry out the
32 provisions of this [subtitle] TITLE.

33 (2) This subsection does not affect the duties of the Attorney General
34 specified in [§ 2-106] § 6-205 of this [article] TITLE.

35 [(o)] (N) The Administration may do anything else necessary or convenient to
36 carry out the powers granted in this title.

1 [(p)] (O) The exercise of the powers under this title is an essential
2 governmental function of the State.

3 [(q)] (P) (1) The Administration[, with the approval of the Commission,]
4 may create private operating companies for the purpose of operating public port
5 facilities.

6 (2) (i) The [Commission] ADMINISTRATION may appoint up to a total
7 of 12 management personnel employees to perform services for all private operating
8 companies created under this subsection.

9 (ii) Notwithstanding any other provision of law, the [Commission]
10 ADMINISTRATION may determine the qualifications and appointment, as well as
11 compensation and leave, for employees appointed under this subsection.

12 (iii) At least 10 days before the effective date of the change, the
13 [Commission] ADMINISTRATION shall submit to the Secretary of Budget and
14 Management each change to the salaries of these employees that involves increases in
15 salary ranges other than those associated with general salary increases approved by
16 the General Assembly.

17 (iv) The Secretary of Budget and Management shall:

18 1. Review the proposed changes; and

19 2. Within 10 days of receipt of the proposed changes, advise
20 the [Commission] ADMINISTRATION whether the changes would have an adverse
21 effect on special fund expenditures.

22 (v) Failure of the Secretary of Budget and Management to respond
23 in a timely manner is deemed to be a statement that the change will have no adverse
24 effect.

25 (vi) Employees appointed under this subsection are State employees
26 and shall be entitled to participate in the retirement and pension systems for
27 employees of the State of Maryland authorized under Division II of the State
28 Personnel and Pensions Article.

29 (vii) On or before December 1 of each year, the [Commission]
30 ADMINISTRATION shall report to the Governor and the Legislative Policy Committee
31 of the General Assembly on actions taken by the [Commission] ADMINISTRATION
32 under this subsection during the previous fiscal year with regard to individuals
33 subject to this subsection.

34 (3) The budget submitted by the Governor to the General Assembly shall
35 include personnel detail for the private operating companies in the form and manner
36 provided for an agency in the State Personnel Management System.

1 (4) Other than employees appointed by the [Commission]
2 ADMINISTRATION under paragraph (2) of this subsection, employees of a private
3 operating company created under this subsection are not State employees.

4 [6-204.1.] 6-402.

5 The Administration, or with the approval of the Administration, a private
6 operating company created under [§ 6-204(q)] § 6-401(P) of this subtitle may:

7 (1) Upon its own terms and conditions determine an appropriate
8 operational unit of employees involved in the operation of port facilities for purposes
9 of collective bargaining;

10 (2) Upon its own terms and conditions accredit and recognize a labor
11 organization as the exclusive representative of a majority of employees employed in
12 the appropriate operational unit as determined under item (1) of this section; and

13 (3) Bargain with and enter into written collective bargaining agreements
14 concerning wages or salaries, hours, benefits, and working conditions with the labor
15 organization accredited and recognized under item (2) of this section.

16 [6-205.] 6-403.

17 Under the authority granted by [§ 6-204(i)] § 6-401(H) of this subtitle, the
18 [Maryland Port] Administration may operate and maintain the port facility
19 presently under its jurisdiction at Cambridge, Maryland. The operation and
20 maintenance may include the leasing of the facility. The [Maryland Port]
21 Administration may expend the necessary funds for the development of the port
22 facility at Cambridge. The Administration may sell, transfer, or otherwise dispose of
23 the facility in accordance with § 10-305 of the State Finance and Procurement Article.
24 [6-206.] 6-404.

25 (a) Subject to Subtitle [4] 6 of this title, the Administration may:

26 (1) Provide for the preservation of navigation within its territorial
27 jurisdiction, including the establishment of lines beyond which piers, bulkheads,
28 wharves, pilings, structures, obstructions, or extensions may not be made or
29 extended;

30 (2) In order to foster and facilitate navigation and prevent injury to
31 persons or property:

32 (i) Prohibit, provide for, and regulate within its territorial
33 jurisdiction the shipment, storage, handling, and transportation of explosives and
34 other materials that it determines to be dangerous;

35 (ii) Provide for the stationing, anchoring, and moving of vessels or
36 other watercraft; and

1 (iii) Adopt rules and regulations to prevent any refuse or other
2 matter from being thrown into, deposited in, or placed where it may fall or be washed
3 into any navigable waters;

4 (3) Make surveys or charts of navigable waters within its territorial
5 jurisdiction and ascertain the depth and course of the channels of these waters;

6 (4) In order to prevent injury to navigation or health:

7 (i) Erect, maintain, and authorize the erection and maintenance of
8 wharves, bulkheads, piers, and pilings; and

9 (ii) Adopt regulations governing their erection, maintenance, and
10 repair, including regulations concerning the erection, maintenance, or repair of any
11 wharf, dock, pier, bulkhead, or piling that is associated with the construction of a
12 dwelling unit or other non-water dependent structure on a pier; and

13 (5) As to wharves, docks, piers, bulkheads, or pilings, it owns or controls:

14 (i) Regulate their use;

15 (ii) Lease or rent them;

16 (iii) Impose and collect dockage from vessels and watercraft lying at
17 or using them; and

18 (iv) Collect wharfage and other charges on goods, wares,
19 merchandise, or other articles landed at, shipped from, stored on, or passed over
20 them.

21 (b) Except for docks or wharves owned, controlled, or operated by the
22 Administration, this title does not:

23 (1) Impose any duty on the Administration as to the safety of any person
24 using any waters;

25 (2) Render the Administration liable for any loss of life, injury, or
26 damage to any person or property because of any obstruction in or unsafe condition of
27 any part of the waters; or

28 (3) Render the Administration liable for any failure to adopt or enforce
29 any rule or regulation under this title.

30 (c) The powers in this section may not be exercised in any county unless the
31 county approves the operations of the Administration in the county.

32 (d) (1) Any ordinance or regulation that was adopted before June 1, 1959 by
33 any State agency, political subdivision, or other public body and that relates to a
34 subject matter over which authority is granted to the Administration by subsection (a)
35 of this section:

1 (i) Continues to be in effect, except as otherwise provided in this
2 subsection;

3 (ii) Has the status of a regulation adopted by the Administration;
4 and

5 (iii) Like other regulations of the Administration, may be readopted,
6 amended, or repealed by the Administration.

7 (2) Only the Administration may readopt, amend, or repeal these
8 ordinances or regulations.

9 [6-211.] 6-409.

10 (a) The [Commission] ADMINISTRATION may adopt and enforce regulations
11 for the parking and operation of motor vehicles in and on its port facilities.

12 (b) The regulations shall:

13 (1) Be reasonably necessary for the safety of persons and property or for
14 the efficient operation of the port facilities;

15 (2) Provide for a uniform system for accessible parking for individuals
16 with disabilities to enhance the safety of people with disabilities in conformity with
17 the "Uniform System for Parking for Persons with Disabilities" (23 CFR Part 1235)
18 and the "Americans with Disabilities Act Accessibility Guidelines for Buildings and
19 Facilities" (Appendix A to 28 CFR Part 36 and 36 CFR Part 1191.1); and

20 (3) Include procedures for the voluntary payment of fines directly to the
21 Administration in uncontested parking cases.

22 (c) The Maryland Transportation Authority Police Force may issue citations
23 for violations of the motor vehicle regulations adopted under this section.

24 (d) (1) Any person who violates a parking regulation adopted under this
25 section is subject to a fine not exceeding \$50. A violation of a parking regulation is not
26 a misdemeanor.

27 (2) Any person who violates any other regulation adopted under this
28 section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding
29 \$500.

30 [6-213.] 6-412.

31 [Except as provided in § 3-102 of this article:]

32 [(1)] (A) Every resolution, rule, regulation, form, order, and directive
33 adopted by or relating to the former Maryland Port Authority remains in effect until
34 changed by the [Administrator or the Secretary; and] ADMINISTRATION.

1 [(2)] (B) Every reference in this Code, any other law, ordinance,
2 resolution, rule, regulation, order, directive, legal action, contract, or any other
3 document to the Maryland Port Authority means the Maryland Port Administration.

4 Subtitle [4.] 6. Port of Baltimore.

5 [6-402.] 6-602.

6 (a) (1) If the Administration and Baltimore City cannot agree on the terms,
7 conditions, and price for any of the property described in [§ 6-401] § 6-601 of this
8 subtitle, the matter shall be referred to an arbitration board.

9 (2) The arbitration board shall consist of three members appointed as
10 follows:

11 (i) One by the Administration;

12 (ii) One by the Board of Estimates of Baltimore City; and

13 (iii) One jointly by the two members already appointed.

14 (3) If, within 15 days after the appointment of the second arbitrator, a
15 third arbitrator has not been appointed, the Governor shall appoint the third
16 arbitrator.

17 (4) If the party seeking arbitration appoints its arbitrator and gives
18 written notice of this appointment to the other party, the other party shall appoint its
19 arbitrator within 30 days after the receipt of the notice. If the other party refuses or
20 neglects to appoint its arbitrator within the 30-day period, the arbitrator appointed
21 by the party seeking arbitration may review the entire matter in controversy as if
22 that individual were an arbitrator appointed by both parties for that purpose.

23 (b) (1) If only one arbitrator is appointed under subsection (a) of this section,
24 the decision of that arbitrator:

25 (i) Shall be made within 90 days after the Administration or the
26 Board of Estimates, as the case may be, refuses or neglects to appoint its arbitrator;

27 (ii) Shall be reported in writing to both parties; and

28 (iii) Is final and binding on both parties.

29 (2) If three arbitrators are appointed under subsection (a) of this section,
30 the decision of the majority of them:

31 (i) Shall be made within 90 days after the first two arbitrators are
32 appointed or within any additional period not exceeding 30 days as may be agreed to
33 by the Administration and the Board of Estimates in writing;

34 (ii) Shall be reported in writing to both parties; and

1 (iii) Is final and binding on both parties.

2 (c) The arbitration board or, if only one arbitrator is appointed, the arbitrator
3 may, among other things:

4 (1) Require that each party to the controversy submit a written
5 statement of its contention to the board and send a copy of the statement to the other
6 party;

7 (2) Make investigations, inspections, and examinations;

8 (3) Take, receive, and keep a permanent record of testimony and other
9 evidence;

10 (4) Hold hearings after notice to the parties in interest; and

11 (5) Adopt rules and regulations for the conduct of the arbitration
12 proceedings.

13 (d) Each party shall pay 50 percent of the arbitration expenses.

14 [6-403.] 6-603.

15 (a) Notwithstanding any other provision of this title, any agreement between
16 the Administration and the Mayor and City Council of Baltimore in connection with
17 the transfer of the McComas Street Terminal, the National Gypsum Company Pier, or
18 the Broadway Pier (Recreation Pier) shall state:

19 (1) The duties and functions of Baltimore City or any of its agencies that
20 are imposed by any law on the harbor or port of Baltimore or their operation and that
21 the Administration must perform; and

22 (2) The time when the Administration must perform these duties and
23 functions.

24 (b) As long as neither the Administration nor Baltimore City or any of its
25 agencies takes an arbitrary or unreasonable position as to the matters described in
26 subsection (a) of this section, there is no obligation for any of them to submit the
27 matters to arbitration under [§ 6-402] § 6-602 of this subtitle.

28 [6-406.] 6-606.

29 (a) The purpose of [§§ 6-406 through 6-410] §§ 6-606 THROUGH 6-610 of this
30 subtitle is:

31 (1) To avoid duplication of effort by the Administration and Baltimore
32 City, to the extent that they have coextensive authority in matters relating to harbors,
33 docks, wharves, and port development; and

34 (2) To assure the uninterrupted continuation of needed services.

1 (b) The duty to exercise all authority in this field continues in Baltimore City
2 to the extent that the authority has not been transferred to the Administration by
3 agreement made under [§ 6-407] § 6-607 of this subtitle.

4 (c) (1) If, by agreement made under [§ 6-407] § 6-607 of this subtitle,
5 Baltimore City transfers to the Administration any duty, only the Administration may
6 perform that duty.

7 (2) Any ordinance or regulation that was adopted before June 1, 1959, by
8 the Mayor and City Council of Baltimore and that relates to any authority transferred
9 to the Administration by agreement made under [§ 6-407] § 6-607 of this subtitle:

10 (i) Continues to be in effect, except as otherwise provided in this
11 subsection;

12 (ii) Has the status of a regulation adopted by the Administration;
13 and

14 (iii) Like other regulations of the Administration, may be readopted,
15 amended, or repealed by the Administration.

16 (3) Only the Administration may readopt, amend, or repeal these
17 ordinances or regulations.

18 [6-408.] 6-608.

19 (a) An agreement made under [§ 6-407] § 6-607 of this subtitle may provide
20 for the transfer by Baltimore City to the Administration of any officers, including the
21 harbor engineer of Baltimore City, and any employees of Baltimore City as are
22 necessary or convenient for the Administration to perform the duties that it
23 undertakes by the agreement.

24 (b) Each transferred officer and employee covered by and subject to the
25 provisions of the [City] CIVIL Service Commission of Baltimore City as a classified
26 employee is entitled, without further examination or restriction, to all the rights and
27 privileges and is subject to all the provisions of the State Personnel and Pensions
28 Article.

29 (c) (1) The transfer of an officer or employee may not result in any decrease
30 of the salary or status of the officer or employee.

31 (2) To the extent reasonably possible, each transfer shall be to a position
32 of comparable rank and responsibility.

33 (d) Notwithstanding any other law to the contrary, each transferred officer
34 and employee is eligible for membership in the State Employees' Retirement System,
35 and all rights of the officer or employee under the employees' retirement system of
36 Baltimore City may be transferred to the State Employees' Retirement System as
37 provided by law.

1 (e) If the Administration and Baltimore City cannot agree by negotiation on
2 the number or type of officers or employees to be transferred under this section, they
3 shall submit the matter to arbitration as provided in [§ 6-402] § 6-602 of this subtitle.
4 [6-410.] 6-610.

5 Except as expressly provided in an agreement made under [§ 6-407] § 6-607 of
6 this subtitle, [§§ 6-406 through 6-410] §§ 6-606 THROUGH 6-610 of this subtitle may
7 not interfere with or impede the exercise by the Mayor and City Council of Baltimore
8 of any of its rights, privileges, or powers under those provisions of the Charter or
9 Public Local Laws of Baltimore City referred to in [§ 6-407] § 6-607 of this subtitle.

10 Subtitle [5.] 7. Port Land Use Development.

11 [6-501.] 6-701.

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

13 (b) "Advisory Council" means the Port Land Use Development Zone Advisory
14 Council.

15 (c) "Brownfields sites" means:

16 (1) Eligible property as defined in § 7-501(g) of the Environment Article;
17 and

18 (2) Property where there is a release, discharge, or threatened release of
19 oil, as defined in § 4-401 of the Environment Article.

20 (d) "Land assemblage" means the compilation of vacant or underutilized
21 property within the Port Land Use Development Zone to create more viable property
22 for specific redevelopment projects.

23 (e) "Zone" means the Port Land Use Development Zone which consists of
24 residentially, commercially, or industrially zoned property within the immediate
25 influence of Port activity. This includes land directly on the Baltimore Harbor or
26 serving the Port of Baltimore, and all public and private properties within 3,000 feet
27 surrounding the Port's waterfront, and extends from Brandon Shores in Anne
28 Arundel County around the waterfront to Middle River in Baltimore County.

29 [6-502.] 6-702.

30 (a) There is an Advisory Council for Port Land Use Development.

31 (b) The Advisory Council is composed of the following:

32 (1) Six ex officio members, to include:

1 (i) The [Secretary of the Maryland Department of Transportation]
2 EXECUTIVE DIRECTOR or the [Secretary's] EXECUTIVE DIRECTOR'S designee, who
3 shall be the chairperson of the Advisory Council;

4 (ii) The Secretary of [the Department of] Business and Economic
5 Development or the Secretary's designee;

6 (iii) The Secretary of [the Department of] Planning or the
7 Secretary's designee;

8 (iv) The Mayor of Baltimore City or the Mayor's designee;

9 (v) The County Executive of Baltimore County or the Executive's
10 designee; and

11 (vi) The County Executive of Anne Arundel County or the
12 Executive's designee.

13 (2) Five members appointed by the Governor as follows:

14 (i) One member to represent a maritime-related business with
15 facilities in the Zone;

16 (ii) One member to represent the environmental community;

17 (iii) One member to represent a residential community located
18 within or contiguous to the Zone;

19 (iv) One member to represent the development community or
20 investment community; and

21 (v) One member to represent the general public.

22 (c) Each appointed member serves for a term of 2 years and until a successor
23 is appointed.

24 (d) Members of the Advisory Council appointed by the Governor are not
25 entitled to compensation.

26 [6-503.] 6-703.

27 (a) There is a Port Land Use Development Office in the Maryland Port
28 Administration of the Department. The Office is responsible for the coordination of a
29 Port Land Use Development Zone as defined in [§ 6-501(e)] § 6-701(E) of this subtitle.

30 (b) The Office shall coordinate and support the activities of the Advisory
31 Council and establish a collaborative effort to vigorously market Port Land Use
32 Development Zone properties for port-related or port-compatible uses.

33 (c) The Office may be augmented by staff support of the State agencies and
34 local jurisdictions involved.

1 [6-504.] 6-704.

2 (a) The Advisory Council, with the assistance of the Port Land Use
3 Development Office, shall coordinate efforts among existing programs within the
4 State and local governments to invigorate land development in and around the Port of
5 Baltimore. In carrying out this duty, the Advisory Council shall:

6 (1) Complete, maintain, and disseminate an inventory of vacant or
7 underutilized property within the Zone that is not needed by the [Maryland Port]
8 Administration for its own future use, and is therefore available for redevelopment;

9 (2) Coordinate the development of a master plan for the Zone, which
10 shall consider:

11 (i) Expectations, plans, and programs of local jurisdictions related
12 to the Zone and port land redevelopment efforts;

13 (ii) Expectations, plans, and programs of State agencies related to
14 the Zone and port land redevelopment efforts; and

15 (iii) Expectations, plans, and concerns of business, residential, and
16 environmental communities related to the Zone and port land redevelopment efforts;

17 (3) Recommend to the Governor any appropriate actions that may lead to
18 the development and reuse of brownfields sites within the Zone, to include the use of
19 any available federal, State, local, or private sector funds for brownfields sites
20 activities;

21 (4) Facilitate access to available financial incentives and explore
22 innovative financing programs for existing as well as new businesses interested in
23 furthering the redevelopment of available Zone properties;

24 (5) Recommend to the Governor any appropriate use of tax incentives
25 and enterprise and foreign trade zones necessary to attract businesses to sites in the
26 Zone;

27 (6) Work with and coordinate the efforts of State and local authorities in
28 land assemblage activities designed to return to productive use vacant or
29 underutilized public and private properties which will facilitate economic
30 development and land redevelopment efforts in the Zone;

31 (7) Establish any subcommittees necessary to carry out the duties of the
32 advisory committee; and

33 (8) Provide such other assistance as may be required to further the
34 purpose of this subtitle.

35 (b) The Port Land Use Development Zone Advisory Council shall make an
36 initial report to the Governor and General Assembly by January 1, 1999, on its
37 recommendations for programs and activities that will further enhance development

1 in the Zone. Thereafter, by December 31 of each year the Advisory Council shall
2 submit an annual report of its activities during that calendar year, together with any
3 recommendations it desires to propose, to the Governor and the General Assembly.

4 **Article - State Finance and Procurement**

5 2-107.

6 (c) (2) The regulations adopted by the Comptroller under paragraph (1) of
7 this subsection shall specify:

8 (i) that the data required for the Maryland Port Administration [of
9 the Department of Transportation] shall be the data included in the port tariff;

10 (ii) that the Maryland Aviation Administration and the Maryland
11 Port Administration shall disclose aggregate information on fees and costs, provided
12 that such disclosure does not include information that is proprietary in nature; and

13 (iii) that any other department, agency, or governmental unit which
14 collects fees or user charges that may contain privileged or proprietary information
15 may aggregate or standardize the information submitted as needed to preserve the
16 sensitive nature of the information.

17 **Article - State Government**

18 2-10A-07.

19 (f) The Secretary of [the Department of] Labor, Licensing, and Regulation[,
20 the Secretary of the Department of Transportation,] and the Executive Director of the
21 Maryland Port Administration shall:

22 (1) cooperate fully with the Committee; and

23 (2) keep the Committee fully informed as to issues affecting the Port of
24 Baltimore.

25 12-401.

26 In this subtitle, "State personnel" means:

27 (1) a regular employee of the State whose compensation:

28 (i) is provided by a State appropriation; or

29 (ii) is paid wholly or partly from State funds;

30 (2) an employee who is under the jurisdiction of the Department of
31 Budget and Management;

32 (3) an officer, warrant officer, or enlisted member of the organized
33 militia;

- 1 (4) an employee of the Maryland Port Administration, as described in [§
2 6-204(n)] § 6-404(M) of the Transportation Article;
- 3 (5) a member or employee of a board of trustees for a community college;
- 4 (6) except in Montgomery County, an employee of a county health
5 department;
- 6 (7) a member or employee of the Baltimore City Board of School
7 Commissioners or of a county board of education;
- 8 (8) a member of the Board of Visitors of the Maryland School for the
9 Deaf;
- 10 (9) a member or employee of a board of supervisors for a soil
11 conservation district;
- 12 (10) a person who, as a volunteer, is providing a service to or for the State;
- 13 (11) a person who, for or under contract with a unit of the State or a local
14 government, performs an emergency service during a state of emergency under Title
15 14 of the Public Safety Article;
- 16 (12) any other individual who, with or without compensation, holds a
17 position that requires the exercise of discretion and of a part of the sovereignty of the
18 State;
- 19 (13) any other State officer or State employee; and
- 20 (14) a Montgomery County employee who administers a State program
21 under Article 88A, § 13A(b) of the Code.

22 **Article - State Personnel and Pensions**

23 3-102.

24 (a) Except as provided in this title or as otherwise provided by law, this title
25 applies to all employees of:

- 26 (1) the principal departments within the Executive Branch of State
27 government;
- 28 (2) the Maryland Insurance Administration;
- 29 (3) the State Department of Assessments and Taxation;
- 30 (4) the State Lottery Agency; [and]
- 31 (5) THE MARYLAND PORT ADMINISTRATION; AND

1 [(5)] (6) the University System of Maryland, Morgan State University,
 2 St. Mary's College of Maryland, and Baltimore City Community College.

3 (b) This title does not apply to:

4 (1) employees of the Maryland Transit Administration, as that term is
 5 defined in § 7-601(a)(2) of the Transportation Article;

6 (2) an employee who is elected to the position by popular vote;

7 (3) an employee in a position by election or appointment that is provided
 8 for by the Maryland Constitution;

9 (4) an employee who is:

10 (i) a special appointment in the State Personnel Management
 11 System; or

12 (ii) 1. directly appointed by the Governor by an appointment
 13 that is not provided for by the Maryland Constitution;

14 2. appointed by or on the staff of the Governor or Lieutenant
 15 Governor; or

16 3. assigned to the Government House or the Governor's
 17 Office;

18 (5) an employee assigned to the Board or with access to records of the
 19 Board;

20 (6) an employee in:

21 (i) the executive service of the State Personnel Management
 22 System; or

23 (ii) a unit of the Executive Branch with an independent personnel
 24 system who is:

25 1. the chief administrator of the unit or a comparable
 26 position that is not excluded under item (3) of this subsection as a constitutional or
 27 elected office; or

28 2. a deputy or assistant administrator of the unit or a
 29 comparable position;

30 (7) (i) a temporary or contractual employee in the State Personnel
 31 Management System; or

32 (ii) a contractual, temporary, or emergency employee in a unit of
 33 the Executive Branch with an independent personnel system;

1 (8) an employee who is entitled to participate in collective bargaining
2 under another law;

3 (9) an employee of the University System of Maryland, Morgan State
4 University, St. Mary's College of Maryland, or Baltimore City Community College
5 who is:

6 (i) a chief administrator or in a comparable position;

7 (ii) a deputy, associate, or assistant administrator or in a
8 comparable position;

9 (iii) a member of the faculty, including a faculty librarian;

10 (iv) a student employee, including a teaching assistant or a
11 comparable position, fellow, or post doctoral intern;

12 (v) a contingent, contractual, temporary, or emergency employee;

13 (vi) a contingent, contractual, or temporary employee whose
14 position is funded through a research or service grant or contract, or through clinical
15 revenues; or

16 (vii) an employee whose regular place of employment is outside the
17 State of Maryland;

18 (10) an employee whose participation in a labor organization would be
19 contrary to the State's ethics laws;

20 (11) any supervisory, managerial, or confidential employee of a unit of
21 State government listed in subsection (a)(1) through [(4)] (5) of this section, as
22 defined in regulations adopted by the Secretary; or

23 (12) any supervisory, managerial, or confidential employee of a State
24 institution of higher education listed in subsection [(a)(5)] (A)(6) of this section, as
25 defined in regulations adopted by the governing board of the institution.

26 SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 6-207
27 through 6-210, 6-212, and 6-212.1, respectively; 6-301 through 6-309, respectively,
28 and the subtitle "Subtitle 3. Acquisition and Operation of Port Facilities"; 6-401,
29 6-404, 6-405, 6-407, 6-409, and 6-411, respectively; and 6-601 and 6-602,
30 respectively, and the subtitle "Subtitle 6. Liberal Construction; Penalties" of Article -
31 Transportation of the Annotated Code of Maryland be renumbered to be Section(s)
32 6-405 through 6-408, 6-410, and 6-411, respectively; 6-501 through 6-509,
33 respectively, and the subtitle "Subtitle 5. Acquisition and Operation of Port
34 Facilities"; 6-601, 6-604, 6-605, 6-607, 6-609, and 6-611, respectively; and 6-801
35 and 6-802, respectively, and the subtitle "Subtitle 8. Liberal Construction; Penalties".

36 SECTION 3. AND BE IT FURTHER ENACTED, That:

1 (a) All employees of the Maryland Port Administration shall be in the State
2 Personnel Management System.

3 (b) Any employee who is in the Department of Transportation Human
4 Resources Management System on the effective date of this Act shall be transferred,
5 without further examination or qualification, to a comparable position in the State
6 Personnel Management System, as determined by the Executive Director of the
7 Maryland Port Administration.

8 (c) An employee transferred to the State Personnel Management System in
9 accordance with this section may not, solely as a result of the transfer, lose any
10 compensation, accumulated leave, leave accrual rates, seniority, or any other rights,
11 benefits, or privileges.

12 SECTION 4. AND BE IT FURTHER ENACTED, That it is the intent of the
13 General Assembly that the individual serving as the Executive Director of the
14 Maryland Port Administration on January 1, 2005, serve as the Executive Director of
15 the Administration until the Governor's appointment to the position is confirmed by
16 the Maryland Senate in accordance with § 6-202 of the Transportation Article, as
17 enacted by Section 1 of this Act.

18 SECTION 5. AND BE IT FURTHER ENACTED, That the publishers of the
19 Annotated Code of Maryland, in consultation with the Department of Legislative
20 Services, shall correct any agency names and titles throughout the Annotated Code
21 that are rendered incorrect by this Act.

22 SECTION 6. AND BE IT FURTHER ENACTED, That this Act shall take
23 effect July 1, 2005.