
By: **Delegates Bohanan and Gaines**

Introduced and read first time: March 6, 2006

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland AIDS Drug Assistance Program - Rebates - Special Fund**

3 FOR the purpose of requiring the Department of Health and Mental Hygiene to
4 deposit or distribute certain rebates received by the Department from the
5 Maryland AIDS Drug Assistance Program to a certain special fund for a certain
6 purpose; and generally relating to a special fund for rebates from the Maryland
7 AIDS Drug Assistance Program.

8 BY repealing and reenacting, with amendments,
9 Article - Health - General
10 Section 2-104
11 Annotated Code of Maryland
12 (2005 Replacement Volume and 2005 Supplement)

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

15 **Article - Health - General**

16 2-104.

17 (a) The Secretary is responsible for the budget of the office of the Secretary
18 and for the budget of each unit in the Department.

19 (b) (1) The Secretary may adopt rules and regulations to carry out the
20 provisions of law that are within the jurisdiction of the Secretary.

21 (2) (i) The Secretary shall adopt regulations, in consultation and
22 cooperation with local governing bodies, to govern the siting of community residences
23 for special populations funded by the Department, the Department of Housing and
24 Community Development, the Department of Human Resources, and the Department
25 of Juvenile Services.

26 (ii) Any regulations adopted shall comply with the federal Fair
27 Housing Amendment Act of 1988.

1 (iii) Prior to the adoption of any regulations proposed under this
2 paragraph, the Secretary shall conduct a public hearing for the sole purpose of
3 allowing all the governing bodies of each county and municipality the opportunity to
4 review and comment on the proposed regulations.

5 (3) The Secretary shall review and may revise the rules and regulations
6 of:

7 (i) The Board of Review of the Department;

8 (ii) Each unit in the Department that is authorized by law to adopt
9 rules and regulations; and

10 (iii) The Department.

11 (c) The Secretary may create an advisory board for the Department. The
12 Secretary shall determine the size of the advisory board. The members shall be
13 representative of the different professional areas or fields of endeavor with which the
14 Department is concerned.

15 (d) The Secretary may create any advisory council that the Secretary
16 considers necessary and assign appropriate functions to it.

17 (e) The Secretary shall have a seal.

18 (f) (1) The Secretary is responsible for the coordination and direction of all
19 planning that the office of the Secretary initiates.

20 (2) The Secretary shall keep fully apprised of plans, proposals, and
21 projects of each unit in the Department and, except as expressly provided otherwise,
22 may approve, disapprove, or modify any of them.

23 (g) Each unit in the Department shall report to the Secretary as provided in
24 the rules, regulations, or written directives that the Secretary adopts.

25 (h) Except as expressly provided otherwise, the Secretary may transfer, by
26 rule, regulation, or written directive, any function, staff, or funds from any unit in the
27 Department to the office of the Secretary or another unit in the Department. Any staff
28 transferred to the office of the Secretary shall be provided space, equipment, and
29 services by the unit from which it was transferred, unless the Secretary orders
30 removal to another location for the proper and efficient functioning of that office.

31 (i) The Secretary may apply for, receive, and spend grants-in-aid by the
32 federal government or any of its agencies or any other federal funds made available to
33 the Department for use in carrying out the powers and duties of the Secretary or the
34 Department.

35 (j) (1) Except as otherwise provided by law AND PARAGRAPH (2) OF THIS
36 SUBSECTION, the Secretary shall pay all money collected by the Department under
37 this article into the General Fund of this State.

1 (2) ANY REBATES RECEIVED BY THE DEPARTMENT FROM THE
2 MARYLAND AIDS DRUG ASSISTANCE PROGRAM SHALL BE DEPOSITED IN OR
3 DISTRIBUTED TO A SPECIAL FUND TO BE USED TO FUND THE MARYLAND AIDS DRUG
4 ASSISTANCE PROGRAM.

5 (k) (1) The Secretary or a designee of the Secretary may subpoena any
6 person or evidence, administer oaths, and take depositions and other testimony.

7 (2) If a person fails to comply with a lawful order or subpoena issued
8 under this subsection, on petition of the Secretary or designee, a court of competent
9 jurisdiction may compel obedience to the order or subpoena or compel testimony or
10 the production of evidence.

11 (3) A witness who is subpoenaed at the request of the Secretary or
12 designee is entitled to receive the same fees and mileage provided for by law in civil
13 cases. However, a witness who is subpoenaed at the request of any other party is not
14 entitled to fees or mileage, unless the Secretary or designee certifies that the
15 testimony was material to the matter investigated. The fee and mileage paid under
16 this subsection shall be audited and paid by this State in the same way other
17 expenses are audited and paid and shall be charged to the general appropriation for
18 the Department.

19 (l) (1) The Secretary or an agent or employee of the Secretary may enter, at
20 any reasonable hour, a place of business or public premises if the entry is necessary to
21 carry out a duty under this article or the Health Occupations Article.

22 (2) A person may not deny or interfere with an entry under this
23 subsection.

24 (3) A person who violates any provision of this subsection is guilty of a
25 misdemeanor and on conviction is subject to a fine not exceeding \$100.

26 (m) The Secretary shall carry out and enforce the provisions of this article, the
27 rules and regulations of the Department, and any other provisions of law that relate
28 to the Secretary or the Department.

29 (n) (1) The Secretary may adopt regulations establishing fees not to exceed
30 an amount sufficient to cover the administrative costs associated with:

31 (i) Inspections or investigations carried out under this article; and

32 (ii) Permits, licenses, certifications, or registrations issued under
33 this article.

34 (2) The Secretary may waive all or part of any fee established under this
35 subsection.

36 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
37 June 1, 2006.