
By: ~~Delegates Bohanan and Gaines~~ Bohanan, Gaines, Barve, Benson, Bromwell, Costa, Donoghue, Elliott, Frank, Hammen, Hubbard, Kach, Kohl, Kullen, Mandel, McDonough, Morhaim, Murray, Nathan-Pulliam, Oaks, Pendergrass, Rudolph, V. Turner, and Weldon

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 22, 2006

CHAPTER _____

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.

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

3 (2) (i) The Secretary shall adopt regulations, in consultation and
4 cooperation with local governing bodies, to govern the siting of community residences
5 for special populations funded by the Department, the Department of Housing and
6 Community Development, the Department of Human Resources, and the Department
7 of Juvenile Services.

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

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

14 (3) The Secretary shall review and may revise the rules and regulations
15 of:

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

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

19 (iii) The Department.

20 (c) The Secretary may create an advisory board for the Department. The
21 Secretary shall determine the size of the advisory board. The members shall be
22 representative of the different professional areas or fields of endeavor with which the
23 Department is concerned.

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

26 (e) The Secretary shall have a seal.

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

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

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

34 (h) Except as expressly provided otherwise, the Secretary may transfer, by
35 rule, regulation, or written directive, any function, staff, or funds from any unit in the
36 Department to the office of the Secretary or another unit in the Department. Any staff

1 transferred to the office of the Secretary shall be provided space, equipment, and
2 services by the unit from which it was transferred, unless the Secretary orders
3 removal to another location for the proper and efficient functioning of that office.

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

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

11 (2) ANY REBATES RECEIVED BY THE DEPARTMENT FROM THE
12 MARYLAND AIDS DRUG ASSISTANCE PROGRAM SHALL BE ~~DEPOSITED IN OR~~
13 DISTRIBUTED TO A SPECIAL FUND, TO BE USED ONLY TO FUND THE MARYLAND AIDS
14 DRUG ASSISTANCE PROGRAM.

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

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

21 (3) A witness who is subpoenaed at the request of the Secretary or
22 designee is entitled to receive the same fees and mileage provided for by law in civil
23 cases. However, a witness who is subpoenaed at the request of any other party is not
24 entitled to fees or mileage, unless the Secretary or designee certifies that the
25 testimony was material to the matter investigated. The fee and mileage paid under
26 this subsection shall be audited and paid by this State in the same way other
27 expenses are audited and paid and shall be charged to the general appropriation for
28 the Department.

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

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

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

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

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

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

4 (ii) Permits, licenses, certifications, or registrations issued under
5 this article.

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

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