
By: **Senator Pipkin**

Introduced and read first time: February 3, 2006

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Port Administration - Transfer to Department of Business and**
 3 **Economic Development**

4 FOR the purpose of transferring the Maryland Port Administration from the
 5 Department of Transportation to the Department of Business and Economic
 6 Development; establishing the Maryland Port Administration Fund as a special,
 7 nonlapsing fund; specifying the contents, purpose, and permitted use of the
 8 Fund; providing that for each fiscal year, certain amounts of the Transportation
 9 Trust Fund shall be transferred and credited to a certain fund; altering the
 10 composition of the Maryland Port Commission; repealing certain powers of the
 11 Chairman of the Commission; specifying that all employees of the
 12 Administration are in the State Personnel Management System; providing for
 13 the transfer of certain employees in the Department of Transportation Human
 14 Resources Management System to the State Personnel Management System;
 15 providing that certain employees of the Maryland Port Administration of the
 16 Department of Transportation who are transferred under this Act to the
 17 Department of Business and Economic Development be transferred without any
 18 diminution of their rights, benefits, or employment status; requiring the
 19 publishers of the Annotated Code of Maryland, subject to the approval of the
 20 Department of Legislative Services, to propose certain corrections to the Code
 21 necessitated by this Act; making certain conforming and stylistic changes; and
 22 generally relating to the Maryland Port Administration.

23 BY transferring

24 Article - Transportation
 25 Section 6-101 through 6-411 and 6-601 and 6-602, respectively, and the title
 26 "Title 6. Ports"
 27 Annotated Code of Maryland
 28 (2001 Replacement Volume and 2005 Supplement)

29 to be

30 Article 83A - Department of Business and Economic Development
 31 Section 7-101 through 7-502, respectively, and the title "Title 7. Ports"
 32 Annotated Code of Maryland
 33 (2003 Replacement Volume and 2005 Supplement)

1 BY repealing and reenacting, with amendments,
2 Article 83A - Department of Business and Economic Development
3 Section 7-201, 7-201.1, and 7-201.2
4 Annotated Code of Maryland
5 (2003 Replacement Volume and 2005 Supplement)
6 (As enacted by Section 1 of this Act)

7 BY adding to
8 Article 83A - Department of Business and Economic Development
9 Section 7-201.3
10 Annotated Code of Maryland
11 (2003 Replacement Volume and 2005 Supplement)

12 BY repealing and reenacting, with amendments,
13 Article - State Finance and Procurement
14 Section 2-107(c)(2)
15 Annotated Code of Maryland
16 (2001 Replacement Volume and 2005 Supplement)

17 BY repealing and reenacting, with amendments,
18 Article - State Government
19 Section 2-10A-07(f) and 12-401
20 Annotated Code of Maryland
21 (2004 Replacement Volume and 2005 Supplement)

22 BY repealing and reenacting, with amendments,
23 Article - Transportation
24 Section 1-101(i), 2-102 (c), 2-103(b), (f), and (g), 2-107(a), and 3-101(h)
25 Annotated Code of Maryland
26 (2001 Replacement Volume and 2005 Supplement)

27 BY repealing
28 Article - Transportation
29 Section 2-110
30 Annotated Code of Maryland
31 (2001 Replacement Volume and 2005 Supplement)

32 BY repealing and reenacting, without amendments,
33 Article - Transportation
34 Section 3-216(a) and (b)
35 Annotated Code of Maryland
36 (2001 Replacement Volume and 2005 Supplement)

1 BY adding to
2 Article - Transportation
3 Section 3-216(f)(3)
4 Annotated Code of Maryland
5 (2001 Replacement Volume and 2005 Supplement)

6 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
7 MARYLAND, That Section(s) 6-101 through 6-411 and 6-601 and 6-602,
8 respectively, and the title "Title 6. Ports" of Article - Transportation of the Annotated
9 Code of Maryland be transferred to be Section(s) 7-101 through 7-502, respectively,
10 and the title "Title 7. Ports" of Article 83A - Department of Business and Economic
11 Development of the Annotated Code of Maryland.

12 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
13 read as follows:

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

15 7-201.

16 (a) There is a Maryland Port Commission.

17 (b) The Commission shall:

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

20 (2) Adopt regulations for the operation of the Administration in a
21 competitive manner within the port industry;

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

24 (4) Unless otherwise directed by the Secretary, serve as the board of
25 directors of any private operating company created under this title; and

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

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

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

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

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

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

5 (iv) A member of the General Assembly.

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

8 (3) Notwithstanding paragraph (1) of this subsection, a member of the
9 Maryland Transportation Authority or any other State board, commission, or
10 authority may be appointed a member of the Maryland Port Commission. Any person
11 so appointed who is compensated by the State is not entitled to any compensation or
12 other emolument, except expenses incurred in connection with attendance at
13 hearings, meetings, field trips, and working sessions, for any services rendered as a
14 Commissioner.

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

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

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

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

29 7-201.1.

30 (a) [All actions of the Commission which, in the judgment of the Chairman,
31 impact upon the Transportation Trust Fund are subject to the approval of the
32 Chairman.

33 (b)] The Chairman of the Commission shall:

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

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

3 [(c)] (B) The Chairman of the Commission may:

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

5 (2) While acting as Secretary of the Department, provide the
6 Commission and the Administration with the personnel of the Department that the
7 Secretary considers necessary to carry out the provisions of this title.

8 7-201.2.

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

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

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

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

21 (2) The report shall include a review of the port's competitive position
22 during the previous year and any recommendations of the Commission for future
23 changes in legislation, capital funding, or operational flexibility for consideration by
24 the General Assembly.

25 (3) The report shall also include any substantive changes in its
26 regulations for procurement and personnel.

27 7-201.3.

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 CHAIRMAN OF THE COMMISSION 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 THE TRANSPORTATION ARTICLE;

10 (3) INCOME FROM THE INVESTMENTS THAT THE TREASURER MAKES
11 FOR 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 **Article - State Finance and Procurement**

24 2-107.

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

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

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

32 (iii) that any other department, agency, or governmental unit which
33 collects fees or user charges that may contain privileged or proprietary information

1 may aggregate or standardize the information submitted as needed to preserve the
2 sensitive nature of the information.

3

Article - State Government

4 2-10A-07.

5 (f) The Secretary of the Department of Labor, Licensing, and Regulation, the
6 Secretary of the Department of [Transportation] BUSINESS AND ECONOMIC
7 DEVELOPMENT, and the Executive Director of the Maryland Port Administration
8 shall:

9 (1) cooperate fully with the Committee; and

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

12 12-401.

13 In this subtitle, "State personnel" means:

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

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

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

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

19 (3) an officer, warrant officer, or enlisted member of the organized
20 militia;

21 (4) an employee of the Maryland Port Administration, as described in [§
22 6-204(n) of the Transportation Article] ARTICLE 83A, § 7-204(N) OF THE CODE;

23 (5) a member or employee of a board of trustees for a community college;

24 (6) except in Montgomery County, an employee of a county health
25 department;

26 (7) a member or employee of the Baltimore City Board of School
27 Commissioners or of a county board of education;

28 (8) a member of the Board of Visitors of the Maryland School for the
29 Deaf;

30 (9) a member or employee of a board of supervisors for a soil
31 conservation district;

32 (10) a person who, as a volunteer, is providing a service to or for the State;

1 (11) a person who, for or under contract with a unit of the State or a local
2 government, performs an emergency service during a state of emergency under Title
3 14 of the Public Safety Article;

4 (12) any other individual who, with or without compensation, holds a
5 position that requires the exercise of discretion and of a part of the sovereignty of the
6 State;

7 (13) any other State officer or State employee; and

8 (14) a Montgomery County employee who administers a State program
9 under Article 88A, § 13A(b) of the Code.

10 **Article - Transportation**

11 1-101.

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

13 (1) The State Aviation Administration;

14 (2) [The Maryland Port Administration;

15 (3)] The Maryland Transit Administration;

16 [(4)] (3) The State Highway Administration; or

17 [(5)] (4) The Motor Vehicle Administration.

18 2-102.

19 (c) (1) With the approval of the Governor, the Secretary shall appoint a
20 deputy secretary who has the duties provided by law or delegated by the Secretary.

21 (2) The deputy secretary is the acting secretary during periods when the
22 Secretary is absent or disabled.

23 (3) The deputy secretary serves at the pleasure of the Secretary and is
24 entitled to the salary provided in the State budget.

25 (4) The deputy secretary shall serve as acting chairman of the Maryland
26 Transportation Authority[, AND acting chairman of the Maryland Aviation
27 Commission[, and acting chairman of the Maryland Port Commission] during
28 periods when the Secretary is absent or disabled.

29 2-103.

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

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

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

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

11 (2) This subsection does not apply to:

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

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

- 15 1. The Board of Airport Zoning Appeals;
- 16 2. The Transportation Professional Services Selection Board;
- 17 3. The Maryland Transportation Authority; OR
- 18 4. The Board of Review of the Department[; or
- 19 5. The Maryland Port Commission and Maryland Port
20 Administration].

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

24 (2) This subsection does not apply to:

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

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

- 29 1. The Board of Airport Zoning Appeals;
- 30 2. The Transportation Professional Services Selection Board;
- 31 3. The Maryland Transportation Authority; OR
- 32 4. The Board of Review of the Department[; or

1 (f) (3) (I) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, FOR EACH
2 FISCAL YEAR, OF THE FUNDS IN THE TRANSPORTATION TRUST FUND THAT HAVE
3 NOT BEEN PLEDGED OR OTHERWISE COMMITTED TO THE PAYMENT OF OR AS
4 SECURITY FOR THE PAYMENT OF ANY BONDS OR DEBT ISSUED OR INCURRED UNDER
5 THIS ARTICLE, THERE SHALL BE TRANSFERRED AND CREDITED TO THE MARYLAND
6 PORT ADMINISTRATION FUND ESTABLISHED UNDER ARTICLE 83A, § 7-201.3 OF THE
7 CODE, ON OR BEFORE JUNE 30 OF THAT FISCAL YEAR, AN AMOUNT EQUAL TO 5% OF
8 THE REVENUE CREDITED FOR THAT FISCAL YEAR UNDER SUBSECTION (B) OF THIS
9 SECTION.

10 (II) THE AMOUNTS TRANSFERRED AND CREDITED TO THE
11 MARYLAND PORT ADMINISTRATION FUND UNDER SUBPARAGRAPH (I) OF THIS
12 PARAGRAPH FOR ANY FISCAL YEAR SHALL BE AVAILABLE FOR APPROPRIATION TO
13 THE MARYLAND PORT ADMINISTRATION IN THAT FISCAL YEAR.

14 SECTION 3. AND BE IT FURTHER ENACTED, That the functions and
15 activities of the Maryland Port Administration are transferred from the Department
16 of Transportation to the Department of Business and Economic Development.

17 SECTION 4. AND BE IT FURTHER ENACTED, That:

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

20 (b) Any employee transferred under this Act who was in the Department
21 of Transportation Human Resources Management System before the effective date of
22 this Act shall be transferred, without further examination or qualification, to a
23 comparable position in the State Personnel Management System, as determined by
24 the Secretary of the Department of Business and Economic Development.

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

29 SECTION 5. AND BE IT FURTHER ENACTED, That all persons who are
30 classified employees of the Maryland Port Administration of the Department of
31 Transportation before July 1, 2006, and who are transferred to the Department of
32 Business and Economic Development as part of the transfer of the Maryland Port
33 Administration under this Act shall be transferred without any diminution of their
34 rights, benefits, or employment status, including merit system and retirement status,
35 if any.

36 SECTION 6. AND BE IT FURTHER ENACTED, That, except as otherwise
37 provided in this Act, nothing in this Act shall be construed to affect the funding,
38 employees, or property of the Maryland Port Administration.

39 SECTION 7. AND BE IT FURTHER ENACTED, That, except as otherwise
40 provided in this Act, nothing in this Act affects the term of office of an appointed
41 member of any board, commission, committee, or council. A person who is a member of

1 such a unit before the effective date of this Act shall remain a member for the balance
2 of the term to which the person was appointed, unless the person before the end of the
3 term dies, resigns, or is removed in accordance with law.

4 SECTION 8. AND BE IT FURTHER ENACTED, That all property, including
5 real or personal property, records, fixtures, appropriations, credits, assets, liabilities,
6 obligations, rights, and privileges held by the Maryland Port Administration of the
7 Department of Transportation shall be transferred to the Department of Business and
8 Economic Development on the effective date of this Act.

9 SECTION 9. AND BE IT FURTHER ENACTED, That, except as otherwise
10 provided by law, all existing laws, rules and regulations, proposed rules and
11 regulations, standards and guidelines, policies, orders and other directives, forms,
12 plans, memberships, contracts, property, investigations, administrative and judicial
13 responsibilities, rights to sue and be sued, and all other duties and responsibilities
14 associated with the functions of the Maryland Port Administration of the Department
15 of Transportation shall continue in effect under the Department of Business and
16 Economic Development, until completed, withdrawn, canceled, modified, or otherwise
17 changed in accordance with law.

18 SECTION 10. AND BE IT FURTHER ENACTED, That all contracts,
19 agreements, grants, or other obligations entered into by the Maryland Port
20 Administration of the Department of Transportation before July 1, 2006, are hereby
21 declared to be valid, legal, and binding obligations of the Department of Business and
22 Economic Development, enforceable in accordance with their terms.

23 SECTION 11. AND BE IT FURTHER ENACTED, That the publishers of the
24 Annotated Code of Maryland, subject to the approval of the Department of Legislative
25 Services, shall propose the correction of any agency names and titles throughout the
26 Annotated Code that are rendered incorrect by this Act and any necessary corrections
27 shall be ratified or validated in the Annual Corrective Bill of 2007.

28 SECTION 12. AND BE IT FURTHER ENACTED, That all appropriations
29 including State and federal funds, held by the Maryland Port Administration shall be
30 transferred to the Department of Business and Economic Development on the
31 effective date of this Act.

32 SECTION 13. AND BE IT FURTHER ENACTED, That this Act shall take effect
33 July 1, 2006.