

# SENATE BILL 39

R2  
SB 788/06 – FIN

71r0739

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By: **Senator Pipkin**  
Introduced and read first time: January 16, 2007  
Assigned to: Finance

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## 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

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



- 1 Section 6–101 through 6–411 and 6–601 and 6–602, respectively, and the title  
2 “Title 6. Ports”  
3 Annotated Code of Maryland  
4 (2001 Replacement Volume and 2006 Supplement)  
5 to be  
6 Article 83A – Department of Business and Economic Development  
7 Section 7–101 through 7–502, respectively, and the title “Title 7. Ports”  
8 Annotated Code of Maryland  
9 (2003 Replacement Volume and 2006 Supplement)
- 10 BY repealing and reenacting, with amendments,  
11 Article 83A – Department of Business and Economic Development  
12 Section 7–201, 7–201.1, and 7–201.2  
13 Annotated Code of Maryland  
14 (2003 Replacement Volume and 2006 Supplement)  
15 (As enacted by Section 1 of this Act)
- 16 BY adding to  
17 Article 83A – Department of Business and Economic Development  
18 Section 7–201.3  
19 Annotated Code of Maryland  
20 (2003 Replacement Volume and 2006 Supplement)
- 21 BY repealing and reenacting, with amendments,  
22 Article – State Finance and Procurement  
23 Section 2–107(c)(2)  
24 Annotated Code of Maryland  
25 (2006 Replacement Volume and 2006 Supplement)
- 26 BY repealing and reenacting, with amendments,  
27 Article – State Government  
28 Section 2–10A–07(f) and 12–401  
29 Annotated Code of Maryland  
30 (2004 Replacement Volume and 2006 Supplement)
- 31 BY repealing and reenacting, with amendments,  
32 Article – Transportation  
33 Section 1–101(i), 2–102(c), 2–103(b), (f), and (g), 2–107(a), and 3–101(h)  
34 Annotated Code of Maryland  
35 (2001 Replacement Volume and 2006 Supplement)
- 36 BY repealing  
37 Article – Transportation

1 Section 2–110  
 2 Annotated Code of Maryland  
 3 (2001 Replacement Volume and 2006 Supplement)

4 BY repealing and reenacting, without amendments,  
 5 Article – Transportation  
 6 Section 3–216(a) and (b)  
 7 Annotated Code of Maryland  
 8 (2001 Replacement Volume and 2006 Supplement)

9 BY adding to  
 10 Article – Transportation  
 11 Section 3–216(f)(3)  
 12 Annotated Code of Maryland  
 13 (2001 Replacement Volume and 2006 Supplement)

14 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
 15 MARYLAND, That Section(s) 6–101 through 6–411 and 6–601 and 6–602,  
 16 respectively, and the title “Title 6. Ports” of Article – Transportation of the Annotated  
 17 Code of Maryland be transferred to be Section(s) 7–101 through 7–502, respectively,  
 18 and the title “Title 7. Ports” of Article 83A – Department of Business and Economic  
 19 Development of the Annotated Code of Maryland.

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

22 **Article 83A – Department of Business and Economic Development**

23 7–201.

24 (a) There is a Maryland Port Commission.

25 (b) The Commission shall:

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

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

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

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

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

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

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

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

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

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

15 (iv) A member of the General Assembly.

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

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

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

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

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

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

9 7–201.1.

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

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

14 (1) Subject to the approval of the Governor, appoint the Executive  
15 Director of the Administration in accordance with § 15–501 of the State Government  
16 Article; and

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

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

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

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

24 7–201.2.

25 (a) (1) Subject to approval of the Administration’s budget by the General  
26 Assembly [as provided in § 3–216 of this article] and subject to State fiscal procedures,  
27 including those governing budgeting, accounting, and auditing, the Commission may  
28 adopt regulations establishing procedures for the approval and control of  
29 Administration expenditures.

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

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

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

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

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

14 **7-201.3.**

15           (A) IN THIS SECTION, "FUND" MEANS THE MARYLAND PORT  
16 ADMINISTRATION FUND.

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

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

21           (D) THE CHAIRMAN OF THE COMMISSION SHALL ADMINISTER THE  
22 FUND.

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

25           (2) THE TREASURER SHALL HOLD THE FUND SEPARATELY, AND  
26 THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.

27           (F) THE FUND CONSISTS OF:

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

3           **(2) FUNDS TRANSFERRED AND CREDITED TO THE FUND UNDER §**  
4 **3-216(F)(3) OF THE TRANSPORTATION ARTICLE;**

5           **(3) INCOME FROM THE INVESTMENTS THAT THE TREASURER**  
6 **MAKES FOR THE FUND;**

7           **(4) MONEY APPROPRIATED IN THE STATE BUDGET TO THE FUND;**  
8 **AND**

9           **(5) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED**  
10 **FOR THE BENEFIT OF THE FUND.**

11           **(G) THE FUND MAY BE USED ONLY FOR THE PURPOSE STATED IN**  
12 **SUBSECTION (C) OF THIS SECTION.**

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

15           **(2) ANY INVESTMENT EARNINGS OF THE FUND SHALL BE PAID**  
16 **INTO THE FUND.**

17           **(I) EXPENDITURES FROM THE FUND MAY BE MADE ONLY IN**  
18 **ACCORDANCE WITH THE STATE BUDGET.**

19                           **Article - State Finance and Procurement**

20           2-107.

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

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

25                           (ii) that the Maryland Aviation Administration and the  
26 Maryland Port Administration shall disclose aggregate information on fees and costs,

1 provided that such disclosure does not include information that is proprietary in  
2 nature; and

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

## 7 Article – State Government

8 2–10A–07.

9 (f) The Secretary of the Department of Labor, Licensing, and Regulation, the  
10 Secretary of the Department of [Transportation] **BUSINESS AND ECONOMIC**  
11 **DEVELOPMENT**, and the Executive Director of the Maryland Port Administration  
12 shall:

13 (1) cooperate fully with the Committee; and

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

16 12–401.

17 In this subtitle, “State personnel” means:

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

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

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

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

23 (3) an officer, warrant officer, or enlisted member of the organized  
24 militia;

25 (4) an employee of the Maryland Port Administration, as described in  
26 [§ 6–204(n) of the Transportation Article] **ARTICLE 83A, § 7–204(N) OF THE CODE;**



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

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

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

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

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

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

13 (11) a person who, for or under contract with a unit of the State or a  
 14 local government, performs an emergency service during a state of emergency under  
 15 Title 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 – Transportation**

23 1–101.

24 (i) “Modal administration” means any of the following:

25 (1) The State Aviation Administration;

26 (2) [The Maryland Port Administration;

27 (3)] The Maryland Transit Administration;

1           ~~[(4)]~~ **(3)**    The State Highway Administration; or

2           ~~[(5)]~~ **(4)**    The Motor Vehicle Administration.

3   2–102.

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

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

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

10                   (4)    The deputy secretary shall serve as acting chairman of the  
11   Maryland Transportation Authority[, ] **AND** acting chairman of the Maryland Aviation  
12   Commission[, and acting chairman of the Maryland Port Commission] during periods  
13   when the Secretary is absent or disabled.

14   2–103.

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

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

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

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

27                   (2)    This subsection does not apply to:

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

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

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

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

14 (2) This subsection does not apply to:

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

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

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

- 1 (a) The following units are in the Department:
- 2 (1) Maryland Aviation Administration;
- 3 (2) [Maryland Port Administration;
- 4 (3)] Maryland Transit Administration;
- 5 [(4)] (3) State Highway Administration;
- 6 [(5)] (4) Motor Vehicle Administration;
- 7 [(6)] (5) Board of Airport Zoning Appeals;
- 8 [(7)] (6) State Roads Commission;
- 9 [(8)] (7) Transportation Professional Services Selection Board; and
- 10 [(9)] (8) Maryland Transportation Commission.

11 [2–110.

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

16 3–101.

17 (h) “Port facility” has the meaning stated in [§ 6–101] **ARTICLE 83A**, §  
 18 **7–101** of [this article] **THE CODE**.

19 3–216.

20 (a) There is a Transportation Trust Fund for the Department.

21 (b) Except as otherwise expressly provided by statute, there shall be credited  
 22 to the Transportation Trust Fund for the account of the Department all taxes, fees,  
 23 charges, and revenues collected or received by or paid, appropriated, or credited to the  
 24 account of the Department or any of its units in the exercise of their rights, powers,  
 25 duties, or obligations, including the cash proceeds of the sale of consolidated

1 transportation bonds, notes, or other evidences of obligation issued by the  
2 Department, any General Fund appropriations, and the proceeds of any State loan or  
3 federal grant made for transportation purposes.

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

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

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

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

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

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

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

1 SECTION 5. AND BE IT FURTHER ENACTED, That all persons who are  
2 classified employees of the Maryland Port Administration of the Department of  
3 Transportation before July 1, 2007, and who are transferred to the Department of  
4 Business and Economic Development as part of the transfer of the Maryland Port  
5 Administration under this Act shall be transferred without any diminution of their  
6 rights, benefits, or employment status, including merit system and retirement status,  
7 if any.

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

11 SECTION 7. AND BE IT FURTHER ENACTED, That, except as otherwise  
12 provided in this Act, nothing in this Act affects the term of office of an appointed  
13 member of any board, commission, committee, or council. A person who is a member of  
14 such a unit before the effective date of this Act shall remain a member for the balance  
15 of the term to which the person was appointed, unless the person before the end of the  
16 term dies, resigns, or is removed in accordance with law.

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

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

31 SECTION 10. AND BE IT FURTHER ENACTED, That all contracts,  
32 agreements, grants, or other obligations entered into by the Maryland Port  
33 Administration of the Department of Transportation before July 1, 2007, are hereby  
34 declared to be valid, legal, and binding obligations of the Department of Business and  
35 Economic Development, enforceable in accordance with their terms.

36 SECTION 11. AND BE IT FURTHER ENACTED, That the publishers of the  
37 Annotated Code of Maryland, subject to the approval of the Department of Legislative

1 Services, shall propose the correction of any agency names and titles throughout the  
2 Annotated Code that are rendered incorrect by this Act and any necessary corrections  
3 shall be ratified or validated in the Annual Corrective Bill of 2008.

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

8 SECTION 13. AND BE IT FURTHER ENACTED, That this Act shall take  
9 effect July 1, 2007.