

HOUSE BILL 1514

R2

8lr3344

By: **Delegate Hucker**

Introduced and read first time: February 20, 2008

Assigned to: Rules and Executive Nominations

Re-referred to: Environmental Matters, March 7, 2008

Committee Report: Favorable

House action: Adopted

Read second time: March 22, 2008

CHAPTER _____

1 AN ACT concerning

2 **State Department of Transportation – Board of Review – Repeal**

3 FOR the purpose of repealing provisions of law relating to the Board of Review of the
4 State Department of Transportation; abolishing the Board of Review of the
5 Department; and generally relating to the Board of Review of the State
6 Department of Transportation.

7 BY repealing

8 Article – Transportation

9 Section 2–501 through 2–506 and the subtitle “Subtitle 5. Board of Review of
10 Department”

11 Annotated Code of Maryland

12 (2001 Replacement Volume and 2007 Supplement)

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

15 **Article – Transportation**

16 [Subtitle 5. Board of Review of Department.]

17 [2–501.

18 In this subtitle, “Board” means the Board of Review of the Department.]

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 [2-502.

2 There is a Board of Review of the Department.]

3 [2-503.

4 (a) The Board consists of seven members appointed by the Governor with the
5 advice of the Secretary and with the advice and consent of the Senate.

6 (b) At least four of the seven members shall be selected from and represent
7 the general public. Each of the other members shall be an individual with knowledge
8 and experience in at least one of the fields under the jurisdiction of the Department.

9 (c) (1) Each member serves for a term of 3 years and until his successor is
10 appointed and qualifies. The terms of the members shall be staggered as required by
11 the original appointments to the Commission, three of which were made for a 3-year
12 term, two of which were made for a 2-year term, and two of which were made for a
13 1-year term.

14 (2) A member appointed to fill a vacancy in an unexpired term serves
15 only for the remainder of that term.

16 (d) The Governor shall designate one of the members representing the
17 general public as the Chairman of the Board.

18 (e) The Board is entitled to the staff provided in the State budget.

19 (f) A member of the Board is entitled to:

20 (1) The compensation provided in the State budget; and

21 (2) Reimbursement for expenses, in accordance with the Standard
22 State Travel Regulations of the Department of Budget and Management.]

23 [2-504.

24 On recommendation of the Secretary or a majority of the Board, the Governor
25 may remove any member of the Board for any of the following reasons:

26 (1) Conviction of any crime that involves moral turpitude;

27 (2) Conviction of any criminal offense the effect of which is to prevent
28 or interfere with the performance of any duty of the Board;

29 (3) Failure regularly to attend meetings of the Board;

1 (4) Failure to carry out duties assigned by the Board or its Chairman;
2 or

3 (5) Acceptance of any position or the conduct of any business that
4 conflicts or tends to conflict with the performance of any duty of the Board.]

5 [2-505.

6 (a) The Board may make recommendations to the Secretary on the operation
7 and administration of the Department as it determines necessary or desirable.

8 (b) (1) The Board shall hear and determine any appeal from a decision of
9 the Secretary or any unit in the Department if:

10 (i) The decision is the adoption of a rule, as defined by the
11 Administrative Procedure Act in Title 10 of the State Government Article;

12 (ii) The appeal is subject to judicial review under the
13 Administrative Procedure Act in §§ 10-125 and 10-128 of the State Government
14 Article; and

15 (iii) The challenge to the decision is based on one of the grounds
16 set forth in the Administrative Procedure Act in §§ 10-125 and 10-128 of the State
17 Government Article.

18 (2) By rule or regulation, the Secretary may require that the Board
19 hear and determine appeals from those decisions, actions, or inactions of any unit in
20 the Department for which review is provided by the rule or regulation.

21 (c) The Board shall report at least annually to the Secretary. Its report shall
22 include a summary by categories of appeals heard and determinations made.

23 (d) A Board member may not participate in any determination or vote in any
24 proceeding in which the member has a direct or indirect private interest.]

25 [2-506.

26 (a) If any person is aggrieved by any decision, action, or inaction on the part
27 of the Secretary or of any unit in the Department for which an appeal to the Board is
28 provided by this subtitle, the person is entitled to appeal within the period that the
29 Board establishes by regulation.

30 (b) Before commencement of an appeal, the person aggrieved shall make
31 known the basis of the complaint to the individual responsible for the decision, action,
32 or inaction complained of, together with a request for review. If, within 30 days of the
33 request, a resolution satisfactory to the complainant does not occur, the complainant
34 may file a statement of complaint in accordance with subsection (c) of this section.

1 (c) Within the period established by the Board, the complainant shall file a
2 detailed written statement of the complaint and all relevant facts and circumstances
3 with the chief executive officer of the Department or unit in the Department to which
4 application for review is made. If there is no chief executive officer, the statement shall
5 be filed with any member of the unit's governing body. The complaint shall be
6 acknowledged promptly in writing, and a copy of the complaint and acknowledgment
7 shall be sent to the Secretary.

8 (d) (1) The Department or unit then shall investigate the complaint.
9 Subject to extensions of time to which the parties may agree, the Department or unit
10 shall render a written decision and send a copy of it to the complainant within 30 days
11 of the filing of the complaint.

12 (2) A record shall be kept of each complaint and its disposition. The
13 record shall be open to public inspection during regular business hours.

14 (e) If the matter is one for which an appeal to the Board is provided by this
15 subtitle, a complainant aggrieved by an adverse decision or action or by inaction
16 within the time required by subsection (d) of this section may file an appeal to the
17 Board.

18 (f) (1) The Board shall adopt procedures as provided in the
19 Administrative Procedure Act and in all respects shall be governed by the provisions of
20 that Act. At least five members shall sit at each hearing of the Board, constituted as a
21 board of appeal. Decisions shall be by a majority of the members sitting, shall be in
22 writing, and shall state the Board's reasons. The Board shall keep minutes of its
23 proceedings.

24 (2) A decision of the Board is the final agency decision for purposes of
25 judicial review under the Administrative Procedure Act or any other provision of law
26 permitting an appeal to the courts from a decision of a unit in the Department.

27 (g) (1) At a hearing of the Board, the Chairman or, in his absence, the
28 acting chairman may administer oaths and issue subpoenas and orders for the
29 attendance of witnesses and the production of papers, books, and documents.

30 (2) If a person fails to comply with any subpoena or order issued under
31 this subsection, the Chairman or acting chairman may invoke the aid of a court of
32 competent jurisdiction. The court may order that person to obey the subpoena or order
33 or to give evidence about the matter in question.

34 (h) Each appeal from a decision of the Board shall be as required in the
35 Administrative Procedure Act except that, if there is a special provision of law
36 governing an appeal from a particular unit, that provision shall govern any appeal
37 from the decision of the unit.]

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2008.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.