

CHAPTER 327

(House Bill 1514)

AN ACT concerning

State Department of Transportation – Board of Review – Repeal

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

BY repealing

Article – Transportation

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

Annotated Code of Maryland

(2001 Replacement Volume and 2007 Supplement)

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

Article – Transportation

[Subtitle 5. Board of Review of Department.]

[2–501.

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

[2–502.

There is a Board of Review of the Department.]

[2–503.

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

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

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

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

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

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

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

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

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

[2-504.

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

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

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

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

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

or

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

[2-505.

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

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

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

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

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

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

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

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

[2–506.

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

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

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

(d) (1) The Department or unit then shall investigate the complaint. Subject to extensions of time to which the parties may agree, the Department or unit

shall render a written decision and send a copy of it to the complainant within 30 days of the filing of the complaint.

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

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

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

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

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

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

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

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

Approved by the Governor, April 24, 2008.