

# HOUSE BILL 38

P1, M3

9lr0821

(PRE-FILED)

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By: **Delegate Manno**

Requested: October 21, 2008

Introduced and read first time: January 14, 2009

Assigned to: Economic Matters

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## A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Bottled Gas Buying Group**

3 FOR the purpose of establishing the Maryland Bottled Gas Buying Group as a  
4 nonprofit public corporation to negotiate the lowest-cost supply of bottled gas  
5 on behalf of its members; specifying the intent of the General Assembly that the  
6 Buying Group become fiscally self-sustaining; establishing a Board of Directors  
7 of the Buying Group; providing for the appointment, terms, and removal of  
8 Board members; prohibiting certain persons from serving on the Board;  
9 prohibiting Board members from receiving compensation; authorizing Board  
10 members to receive certain reimbursement; providing for the appointment of an  
11 executive director; establishing the duties of the executive director; providing  
12 that the Board shall determine the compensation of the executive director and  
13 other employees; exempting the Buying Group from certain finance and  
14 procurement laws and certain State personnel and pension laws; requiring the  
15 Buying Group to conduct a certain audit of its books a certain number of times  
16 each year; requiring the Buying Group to report to the Governor and the  
17 General Assembly by a certain date each year; authorizing the Board to  
18 establish terms and conditions for membership in the Buying Group; requiring  
19 the Buying Group to refund to its members a certain amount after each fiscal  
20 year; requiring that the refund be apportioned among members in a certain  
21 manner; establishing a Maryland Bottled Gas Buying Group Fund as a special,  
22 nonlapsing fund for certain purposes; providing that the Buying Group shall  
23 administer the Fund; requiring the State Treasurer to hold the Fund separately  
24 and the Comptroller to account for the Fund; providing for the contents of the  
25 Fund; providing for the use of the Fund; requiring the State Treasurer to invest  
26 the Fund in a certain manner; defining certain terms; and generally relating to  
27 the Maryland Bottled Gas Buying Group.

28 BY adding to

29 Article – State Government

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Section 9–2101 through 9–2110 to be under the new subtitle “Subtitle 21.  
2 Maryland Bottled Gas Buying Group”  
3 Annotated Code of Maryland  
4 (2004 Replacement Volume and 2008 Supplement)

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

7 **Article – State Government**

8 **SUBTITLE 21. MARYLAND BOTTLED GAS BUYING GROUP.**

9 **9–2101.**

10 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
11 INDICATED.

12 (B) “BOARD” MEANS THE BOARD OF DIRECTORS OF THE MARYLAND  
13 BOTTLED GAS BUYING GROUP.

14 (C) “BOTTLED GAS” MEANS GAS THAT IS USED FOR RESIDENTIAL FUEL  
15 AND IS STORED IN A CYLINDER OR TANK, WHETHER PORTABLE OR FIXED.

16 (D) “BUYING GROUP” MEANS THE MARYLAND BOTTLED GAS BUYING  
17 GROUP ESTABLISHED UNDER § 9–2102 OF THIS SUBTITLE.

18 (E) “FUND” MEANS THE MARYLAND BOTTLED GAS BUYING GROUP  
19 FUND ESTABLISHED UNDER § 9–2110 OF THIS SUBTITLE.

20 **9–2102.**

21 (A) THERE IS A MARYLAND BOTTLED GAS BUYING GROUP.

22 (B) THE BUYING GROUP IS A NOT-FOR-PROFIT BODY POLITIC AND  
23 CORPORATE AND IS AN INSTRUMENTALITY OF THE STATE.

24 (C) THE PURPOSE OF THE BUYING GROUP IS TO NEGOTIATE THE  
25 LOWEST-COST SUPPLY OF BOTTLED GAS ON BEHALF OF ITS MEMBERS.

26 (D) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE BUYING  
27 GROUP BECOME FISCALLY SELF-SUSTAINING.

28 **9–2103.**

29 (A) THERE IS A BOARD OF DIRECTORS OF THE BUYING GROUP.

1           **(B) THE BUYING GROUP IS SUBJECT TO THE SUPERVISION AND**  
2 **CONTROL OF THE BOARD.**

3           **(C) (1) THE BOARD CONSISTS OF SEVEN MEMBERS APPOINTED BY**  
4 **THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE SENATE.**

5                   **(2) A BOARD MEMBER MAY NOT BE AN EMPLOYEE, OFFICER, OR**  
6 **DIRECTOR OF, OR HAVE A SUBSTANTIAL FINANCIAL INTEREST IN, A PERSON**  
7 **THAT MANUFACTURES, DISTRIBUTES, OR SELLS BOTTLED GAS.**

8                   **(3) (I) THE TERM OF A BOARD MEMBER IS 4 YEARS AND**  
9 **BEGINS ON JULY 1.**

10                   **(II) THE TERMS OF BOARD MEMBERS ARE STAGGERED AS**  
11 **REQUIRED BY THE TERMS PROVIDED FOR BOARD MEMBERS ON JULY 1, 2009.**

12                   **(III) AT THE END OF A TERM, A BOARD MEMBER CONTINUES**  
13 **TO SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.**

14                   **(IV) A BOARD MEMBER WHO IS APPOINTED AFTER A TERM**  
15 **HAS BEGUN SERVES ONLY FOR THE REST OF THE TERM AND UNTIL A**  
16 **SUCCESSOR IS APPOINTED AND QUALIFIES.**

17                   **(4) THE GOVERNOR MAY REMOVE A BOARD MEMBER FOR**  
18 **INCOMPETENCE, MISCONDUCT, OR FAILURE TO PERFORM THE DUTIES OF THE**  
19 **POSITION.**

20                   **(5) A BOARD MEMBER:**

21                           **(I) MAY NOT RECEIVE COMPENSATION FOR SERVING ON**  
22 **THE BOARD; BUT**

23                           **(II) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES**  
24 **UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE**  
25 **STATE BUDGET.**

26 **9-2104.**

27                   **(A) THE BOARD SHALL APPOINT AN EXECUTIVE DIRECTOR AS THE**  
28 **CHIEF ADMINISTRATIVE OFFICER OF THE BUYING GROUP.**

29                   **(B) THE EXECUTIVE DIRECTOR SERVES AT THE PLEASURE OF THE**  
30 **BOARD.**

1           (C)    **UNDER THE DIRECTION OF THE BOARD, THE EXECUTIVE DIRECTOR**  
2 **SHALL PERFORM ANY DUTY OR FUNCTION THAT IS NECESSARY FOR THE**  
3 **OPERATION OF THE BUYING GROUP, INCLUDING HIRING EMPLOYEES AND**  
4 **CONTRACTING WITH ENTITIES FOR NECESSARY SERVICES.**

5           (D)    **THE BOARD SHALL DETERMINE THE APPROPRIATE COMPENSATION**  
6 **FOR THE EXECUTIVE DIRECTOR AND OTHER EMPLOYEES.**

7 **9-2105.**

8           **THE BUYING GROUP IS NOT SUBJECT TO:**

9                   (1)   **THE PROVISIONS OF THE STATE FINANCE AND**  
10 **PROCUREMENT ARTICLE;**

11                   (2)   **THE PROVISIONS OF DIVISION I OF THE STATE PERSONNEL**  
12 **AND PENSIONS ARTICLE THAT GOVERN THE STATE PERSONNEL MANAGEMENT**  
13 **SYSTEM; OR**

14                   (3)   **THE PROVISIONS OF DIVISIONS II AND III OF THE STATE**  
15 **PERSONNEL AND PENSIONS ARTICLE.**

16 **9-2106.**

17           (A)    **AT LEAST ONCE EACH YEAR, THE BUYING GROUP SHALL HAVE ITS**  
18 **BOOKS AUDITED BY A CERTIFIED PUBLIC ACCOUNTANT.**

19           (B)    **THE BUYING GROUP SHALL PAY FOR THE COST OF THE AUDIT**  
20 **FROM MONEY AVAILABLE TO IT UNDER THIS SUBTITLE.**

21 **9-2107.**

22           (A)    **ON OR BEFORE OCTOBER 1 OF EACH YEAR, THE BUYING GROUP**  
23 **SHALL REPORT ON ITS ACTIVITIES FOR THE PRECEDING FISCAL YEAR TO THE**  
24 **GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT**  
25 **ARTICLE, THE GENERAL ASSEMBLY.**

26           (B)    **THE REPORT SHALL INCLUDE A COMPLETE OPERATING AND**  
27 **FINANCIAL STATEMENT COVERING THE OPERATIONS OF THE BUYING GROUP**  
28 **DURING THE PRECEDING FISCAL YEAR.**

29 **9-2108.**

1           **THE BOARD SHALL ESTABLISH THE TERMS AND CONDITIONS FOR**  
2 **MEMBERSHIP IN THE BUYING GROUP.**

3 **9-2109.**

4           **(A) AFTER EACH FISCAL YEAR, THE BUYING GROUP SHALL RETURN TO**  
5 **ITS MEMBERS, IN THE FORM OF A REBATE, THE AMOUNT BY WHICH THE TOTAL**  
6 **MONEY RECEIVED FROM MEMBERS DURING THE FISCAL YEAR EXCEEDED THE**  
7 **EXPENSES OF THE BUYING GROUP FOR THE FISCAL YEAR.**

8           **(B) REBATES SHALL BE APPORTIONED AMONG MEMBERS BASED ON**  
9 **THE AMOUNT OF MONEY PAID TO THE BUYING GROUP BY EACH MEMBER**  
10 **DURING THE FISCAL YEAR.**

11 **9-2110.**

12           **(A) THERE IS A MARYLAND BOTTLED GAS BUYING GROUP FUND.**

13           **(B) THE PURPOSE OF THE FUND IS TO PAY THE COSTS AND EXPENSES**  
14 **OF THE BUYING GROUP IN CARRYING OUT THIS SUBTITLE.**

15           **(C) THE BUYING GROUP SHALL ADMINISTER THE FUND.**

16           **(D) (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT**  
17 **SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.**

18                   **(2) THE STATE TREASURER SHALL HOLD THE FUND**  
19 **SEPARATELY, AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.**

20           **(E) THE FUND CONSISTS OF:**

21                   **(1) MONEY APPROPRIATED IN THE STATE BUDGET TO THE FUND;**

22                   **(2) MONEY RECEIVED FROM BUYING GROUP MEMBERS;**

23                   **(3) ANY INVESTMENT EARNINGS OF THE FUND; AND**

24                   **(4) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR**  
25 **THE BENEFIT OF THE FUND.**

26           **(F) EXCEPT AS PROVIDED IN § 9-2109 OF THIS SUBTITLE, THE FUND**  
27 **MAY BE USED ONLY TO PAY THE EXPENSES OF THE BUYING GROUP.**

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

3           SECTION 2. AND BE IT FURTHER ENACTED, That the terms of the initial  
4 members of the Board of Directors of the Maryland Bottled Gas Buying Group shall  
5 expire as follows:

6                   (1) three members on June 30, 2011; and

7                   (2) four members on June 30, 2013.

8           SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
9 July 1, 2009.