

# HOUSE BILL 550

E4

9lr1816

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By: **Delegates Kelly, Simmons, and Smigiel**  
Introduced and read first time: February 5, 2009  
Assigned to: Judiciary

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Committee Report: Favorable  
House action: Adopted  
Read second time: March 17, 2009

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Special Police Commissions – Recommended Denial of Application – Appeals**

3 FOR the purpose of requiring the Secretary of State Police, on completion of a certain  
4 investigation of an applicant for a special police commission, to notify the  
5 applicant of the final decision of the Secretary on whether to recommend the  
6 denial or the granting of the application to the Governor; authorizing any  
7 person aggrieved by a final decision of the Secretary to take an appeal as a  
8 contested case in accordance with the Administrative Procedures Act; requiring  
9 the Secretary to transmit to the Governor the final disposition of any appeal  
10 made by a person aggrieved by a certain decision; and generally relating to  
11 special police commissions.

12 BY repealing and reenacting, with amendments,  
13 Article – Public Safety  
14 Section 3–305  
15 Annotated Code of Maryland  
16 (2003 Volume and 2008 Supplement)

17 BY repealing and reenacting, without amendments,  
18 Article – Public Safety  
19 Section 3–306  
20 Annotated Code of Maryland  
21 (2003 Volume and 2008 Supplement)

22 BY repealing and reenacting, without amendments,  
23 Article – State Government

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**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 Section 10-202(a) and (d)  
2 Annotated Code of Maryland  
3 (2004 Replacement Volume and 2008 Supplement)

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

6 **Article – Public Safety**

7 3-305.

8 (a) (1) The Secretary shall investigate the character, reputation, and  
9 qualifications of each applicant for a commission.

10 (2) The investigation shall include an investigation of the applicant's  
11 criminal record, including checking records of local police departments and the Federal  
12 Bureau of Investigation.

13 (3) The Secretary shall conduct the investigation in accordance with  
14 rules and regulations adopted by the Secretary.

15 **(B) (1) ON COMPLETION OF THE INVESTIGATION, THE SECRETARY**  
16 **SHALL NOTIFY THE APPLICANT OF THE FINAL DECISION OF THE SECRETARY ON**  
17 **WHETHER TO RECOMMEND THE DENIAL OR THE GRANTING OF THE**  
18 **APPLICATION TO THE GOVERNOR.**

19 **(2) ANY PERSON AGGRIEVED BY A FINAL DECISION OF THE**  
20 **SECRETARY TO RECOMMEND THE DENIAL OF AN APPLICATION UNDER THIS**  
21 **SECTION MAY TAKE AN APPEAL AS A CONTESTED CASE IN ACCORDANCE WITH**  
22 **TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.**

23 [(b)] (C) (1) The Secretary shall transmit to the Governor:

24 (i) the results of the investigation;

25 (ii) a recommendation on denying or granting the application;

26 [and]

27 (iii) the reasons for the recommendation; **AND**

28 **(IV) THE FINAL DISPOSITION OF ANY APPEAL MADE BY AN**  
29 **AGGRIEVED PERSON DESCRIBED IN SUBSECTION (B)(2) OF THIS SECTION.**

30 (2) The Governor may accept the recommendation of the Secretary but  
31 need not issue a commission approved by the Secretary if the Governor believes it not  
32 to be in the best interest of the State to do so.

1 3-306.

2 (a) The Governor shall issue a commission to each applicant approved by the  
3 Governor.

4 (b) The commission shall indicate:

5 (1) the term of the commission; and

6 (2) the property that the commission is intended to cover or the  
7 purpose for which the commission is issued.

8 **Article – State Government**

9 10-202.

10 (a) In this subtitle the following words have the meanings indicated.

11 (d) (1) “Contested case” means a proceeding before an agency to  
12 determine:

13 (i) a right, duty, statutory entitlement, or privilege of a person  
14 that is required by statute or constitution to be determined only after an opportunity  
15 for an agency hearing; or

16 (ii) the grant, denial, renewal, revocation, suspension, or  
17 amendment of a license that is required by statute or constitution to be determined  
18 only after an opportunity for an agency hearing.

19 (2) “Contested case” does not include a proceeding before an agency  
20 involving an agency hearing required only by regulation unless the regulation  
21 expressly, or by clear implication, requires the hearing to be held in accordance with  
22 this subtitle.

23 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
24 October 1, 2009.