

SENATE BILL 1058

P1, M1, M3

9lr3468

By: **Senator Colburn**

Constitutional Requirements Complied with for Introduction in the last 35 Days of Session

Introduced and read first time: March 13, 2009

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Reorganization of State Government – Consolidating the Department of the**
3 **Environment into the Department of Natural Resources**

4 FOR the purpose of restructuring State government by the consolidation of the
5 Department of the Environment into the Department of Natural Resources;
6 abolishing the Department of the Environment by a certain date; abolishing
7 certain positions under the Department of the Environment by a certain date;
8 transferring all of the functions, powers, duties, equipment, assets, and
9 liabilities of the Department of the Environment to the Department of Natural
10 Resources as of a certain date; transferring all of the boards, commissions,
11 programs, funds, and units of the Department of the Environment to the
12 Department of Natural Resources as of a certain date, subject to a certain plan;
13 providing for the meaning of certain names and titles in certain documents;
14 requiring the Secretary of Budget and Management, in conjunction with the
15 Secretary of Natural Resources and the Secretary of the Environment, to
16 develop the plan and to include certain elements, including necessary
17 legislation, certain provisions, a certain inventory, and a certain budget
18 reduction goal by a certain year; requiring the plan to provide certain employees
19 with a transfer option meeting certain requirements; providing for the transfer
20 of certain appropriations to the Department of Natural Resources on or before a
21 certain date; providing certain transitional provisions relating to the continuity
22 of certain terms of office in a certain division, board, commission, authority,
23 council, committee, office, or unit; providing for the continuity of certain rights,
24 duties, or interests flowing from certain transactions entered into before a
25 certain date; requiring the publisher of the Annotated Code of Maryland, in
26 consultation with, and subject to the approval of, the Department of Legislative
27 Services, to correct certain cross-references and terminology; providing for the
28 continuity of certain laws and regulations, proposed regulations, and other
29 duties and responsibilities; providing continuity for a certain license,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



registration, or certification; providing continuity for certain bonds and other financial instruments; requiring the Governor to include a certain appropriation in the State budget for a certain year that is consistent with the plan and that conforms to certain budget figures for a certain other year; repealing certain inconsistent laws; requiring the Secretary of Natural Resources to submit a report containing certain information to the Governor and the General Assembly on or before certain dates; making the provisions of this Act severable; defining a certain term; making certain stylistic changes and deleting an obsolete reference; and generally relating to restructuring State government by the consolidation of the Department of the Environment into the Department of Natural Resources.

BY repealing and reenacting, with amendments,
Article – Natural Resources
Section 1–101, 1–102(a) and (b), and 1–104(a), (c), (d), (g), and (i)
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

BY repealing
Article – Natural Resources
Section 1–104(l)
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

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

Article – Natural Resources

1–101.

(a) **IN THIS TITLE, “NATURAL RESOURCES” MEANS ALL NATURAL RESOURCES IN THE STATE, INCLUDING LAND AND WATER RESOURCES.**

(B) There is a Department of Natural Resources, established as a principal department of the State government. The head of the Department is the Secretary of Natural Resources, who shall be appointed by the Governor with the advice and consent of the Senate. The Secretary shall be an individual with administrative ability, whose reputation and experience demonstrate his interest in the field of natural resources.

[(b)] (C) It is the intention of the General Assembly, in providing for a Department of Natural Resources, to establish a State department which, in addition to its other functions, shall:

1 (1) Review and evaluate all natural resources policies, plans,
2 programs, and practices of State, county, regional, and federal agencies and
3 institutions;

4 (2) Coordinate natural resources activities within the State;

5 (3) Be a center for collecting and organizing information on natural
6 resources for the guidance of the Governor and the General Assembly; and

7 (4) Otherwise unify, coordinate, and promulgate policies, plans,
8 programs, and practices which insure the preservation, development, wise use, and
9 enjoyment of all the natural resources for greatest benefits to the State and its
10 citizens.

11 [(c)] (D) The Secretary serves at the pleasure of the Governor. He is directly
12 responsible to the Governor and shall counsel and advise him on all matters assigned
13 to the Department. The Secretary is responsible for carrying out the Governor's
14 policies in the areas of natural resources research and development, management, and
15 administration. The Secretary shall receive the salary and have the assistants,
16 employees, and professional consultants provided in the State budget.

17 [(d)] (E) (1) (i) The Secretary is responsible for the operation of the
18 Secretary's office and shall establish guidelines and procedures to promote its orderly
19 and efficient administration.

20 (ii) The Secretary may establish areas of responsibility within
21 the Secretary's office and may reorganize or abolish them as necessary to fulfill the
22 duties assigned to the Secretary.

23 (iii) The Secretary may appoint such staff assistants as are
24 necessary to administer these areas of responsibility.

25 (2) The Secretary shall appoint, with the approval of the Governor, a
26 deputy secretary who shall have the duties provided by law or delegated by the
27 Secretary. The deputy secretary is in the executive service of the State Personnel
28 Management System, serves at the pleasure of the Secretary, and shall receive the
29 compensation provided in the State budget. All assistant secretaries, staff assistants,
30 and professional consultants are in the executive service, management service, or are
31 special appointments in the State Personnel Management System and are appointed
32 by and serve at the Secretary's pleasure. Wherever it is provided by law that the
33 Secretary makes an appointment to a particular office within the Department with the
34 approval of the Governor, the Secretary may not remove the appointee without first
35 obtaining the Governor's approval.

36 (3) Except as otherwise provided by law, the Secretary shall appoint
37 and remove all other personnel in accordance with the provisions of the State

Personnel and Pensions Article. The Secretary may delegate his authority to appoint or remove personnel of any unit to the administrator of the unit.

[(e)] (F) The Attorney General is the legal adviser to the Department. The Attorney General shall assign the number of assistant Attorneys General authorized by law to be assigned to the units of the Department. One of the assistant Attorneys General shall be designated by the Attorney General as counsel to the Department of Natural Resources. The counsel to the Department shall have no other duty than to render, subject to the discretion and control of the Attorney General, the legal aid, advice, and counsel required by the Secretary and the other officials of the Department and, also subject to the discretion and control of the Attorney General, to supervise the other assistant Attorneys General assigned to the Department. After the Attorney General has designated an assistant Attorney General to serve as counsel to the Department of Natural Resources, the Attorney General may not reassign the counsel without consultation with the Secretary. This subsection does not apply to any unit of government within the Department of Natural Resources if the unit is authorized by law to employ its own legal adviser or counsel.

1-102.

(a) The Department shall include all units, programs, boards, commissions, and advisory boards and commissions referenced in this article **AND THE ENVIRONMENT ARTICLE**.

(b) The following units are also included in this Department:

[(1) The Maryland Membership Unit of the Interstate Commission of the Potomac River Basin;

(2) The Maryland Membership Unit of the Susquehanna River Basin Commission;

(3) The Maryland Membership Unit of the Atlantic States Marine Fisheries Commission;

(4) The Maryland Membership Unit of the Potomac River Fisheries Commission;

(5) The Maryland Membership Unit of the Interstate Oil and Gas Compact Commission; and

(6) The Maryland Membership Unit of the Interstate Mining Commission.]

(1) **THE AIR QUALITY CONTROL ADVISORY COUNCIL;**

(2) **THE BOARD OF ENVIRONMENTAL SANITARIANS;**

1 (3) **THE BOARD OF WATERWORKS AND WASTE SYSTEM**
2 **OPERATORS;**

3 (4) **THE BOARD OF WELL DRILLERS;**

4 (5) **THE ENVIRONMENTAL NOISE ADVISORY COUNCIL;**

5 (6) **THE HAZARDOUS SUBSTANCES ADVISORY COUNCIL;**

6 (7) **THE HAZARDOUS WASTE FACILITIES SITING BOARD;**

7 (8) **THE MARYLAND MEMBERSHIP UNIT OF THE ATLANTIC**
8 **STATES MARINE FISHERIES COMMISSION;**

9 (9) **THE MARYLAND MEMBERSHIP UNIT OF THE INTERSTATE**
10 **COMMISSION OF THE POTOMAC RIVER BASIN;**

11 (10) **THE MARYLAND MEMBERSHIP UNIT OF THE INTERSTATE**
12 **MINING COMMISSION;**

13 (11) **THE MARYLAND MEMBERSHIP UNIT OF THE INTERSTATE**
14 **OIL AND GAS COMPACT COMMISSION;**

15 (12) **THE MARYLAND MEMBERSHIP UNIT OF THE POTOMAC**
16 **RIVER FISHERIES COMMISSION;**

17 (13) **THE MARYLAND MEMBERSHIP UNIT OF THE SUSQUEHANNA**
18 **RIVER BASIN COMMISSION;**

19 (14) **THE RADIATION CONTROL ADVISORY BOARD; AND**

20 (15) **THE SCIENCE AND HEALTH ADVISORY GROUP.**

21 1–104.

22 (a) The Secretary is responsible for the development of coordinated policies
23 for the preservation, conservation, enhancement, wise use, and perpetuation of the
24 natural resources of the State. [He] **THE SECRETARY** is responsible for the efficient
25 coordination of all the natural resources activities of the State including the
26 settlement of conflicts that may arise among units within the Department of Natural
27 Resources. In the discharge of [his responsibility] **THESE RESPONSIBILITIES** the
28 Secretary shall:

1 (1) Provide a forum of communication among natural resources units
2 **OF THE DEPARTMENT** and a source of information for the Governor and General
3 Assembly as to the preservation, conservation, development, and use of all the State's
4 natural resources;

5 (2) Study and evaluate any plan, program, or activity or any
6 combination of plans, programs, or activities within one or more of the units of the
7 Department, and recommend any legislative, budgetary, or administrative changes to
8 provide more effective administration, clarify responsibilities, terminate obsolete
9 programs, establish desirable programs, or alter or amend programs to meet changed
10 or changing conditions;

11 (3) Review federal statutes, policies, programs, and activities which
12 affect or may affect natural resources in the State and recommend to federal, State,
13 and local agencies and institutions procedures for the coordination of these programs;

14 (4) Study the natural resources activities of the subdivisions of the
15 State and recommend procedures for coordination of the natural resources activities of
16 the State and its subdivisions;

17 (5) Maintain a catalog classified by use, of public land acquired or
18 used in the preservation, conservation, development, management, or enjoyment of
19 the natural resources; review and approve all plans and proposals of the units of the
20 Department for the acquisition of additional land for such purposes, taking into
21 account public land owned and managed for identical or similar purposes by federal
22 agencies and by counties, municipalities, and other political subdivisions of the State;

23 (6) Establish and maintain, for the use of the Department, a natural
24 resources library, cataloged according to a recognized library system and containing
25 legal, scientific, and administrative reports, books, documents, photographs, records,
26 and other information on the natural resources and natural resources administration;
27 and

28 (7) Provide technical assistance to other State units, counties,
29 municipalities, corporations, organizations, groups, and individuals in planning,
30 organizing, and conducting leisure activities and recreation programs.

31 (c) The Secretary may transfer, assign or reassign any function or activity of
32 any unit within the Department, together with the staff, funds and equipment
33 associated with that function or activity, either to the office of the Secretary or to any
34 other unit within the Secretary's jurisdiction, in order to increase efficiency and
35 economy in administering natural resources in the State. Whenever the Secretary
36 believes any transfer of function or activity renders misleading or inadequate the
37 name of any unit within the Department as enumerated in § 1-102 of this subtitle,
38 [he] **THE SECRETARY**, with the Governor's approval, may assign a new name or
39 names to the affected unit. If this is done, the Secretary shall cause to be submitted to

1 the next ensuing session of the General Assembly a legislative proposal for
2 appropriate amendment of § 1–102 of this subtitle.

3 (d) The Secretary shall publish books, pamphlets, maps, and other materials
4 on the subject of natural resources and encourage and assist the Department's units in
5 the preparation of these materials for publication. [He] **THE SECRETARY** shall
6 maintain a supply of the publications and other materials for sale at cost to schools,
7 libraries, and the general public, and establish policies for the Department on the
8 gratuitous distribution of publications issued by the Department and its member
9 units.

10 (g) The Secretary is responsible for promulgating rules and regulations for
11 the Department. [He] **THE SECRETARY** shall review and have the power to approve,
12 disapprove, issue, or revise the rules and regulations of every unit of the Department.

13 (i) The office of Secretary of Natural Resources shall have a seal for
14 purposes of authentication of copies of records or papers in [his] **THE SECRETARY'S**
15 office.

16 [(1) For fiscal year 2007, the Governor shall include in the annual budget bill
17 submitted to the General Assembly an appropriation in an amount equal to at least
18 \$88,000 for the Department to maintain a natural resources library as required under
19 subsection (a)(6) of this section.]

20 SECTION 2. AND BE IT FURTHER ENACTED, That:

21 (a) As of June 30, 2010, and subject to the provisions of subsection (b) of this
22 section, the Department of the Environment is hereby abolished as an independent
23 unit in the Executive Branch, and that as of July 1, 2010, the Department of Natural
24 Resources shall be the successor of the Department of the Environment.

25 (b) As of July 1, 2010, the positions of Secretary of the Environment and
26 Deputy Secretary of the Environment are abolished, and the Secretary of Natural
27 Resources shall be the successor of the Secretary of the Environment. This section
28 may not be construed to prevent the Governor from appointing an individual serving
29 in one of these positions as of June 30, 2010, to serve as the Secretary of Natural
30 Resources.

31 (c) Subject to the provisions of Section 3 of this Act, on July 1, 2010, all the
32 functions, powers, duties, equipment, assets, and liabilities of the Department of the
33 Environment shall be transferred to the Department of Natural Resources.

34 (d) Subject to the provisions of the plan and legislation developed and
35 implemented in accordance with Section 3 of this Act, all boards, commissions,
36 programs, funds, and other units in the Department of the Environment that were
37 created by statute, regulation, executive order, secretarial or unit directive, or other

1 executive action and in existence on June 30, 2010, shall be transferred to the
2 Department of Natural Resources as of July 1, 2010.

3 (e) In every law, executive order, regulation, policy, or document created by
4 any official, employee, or unit of this State, the names and titles of those officials,
5 employees, or units mean the names and titles of the successor official, employee, or
6 unit, as provided in this Act.

7 SECTION 3. AND BE IT FURTHER ENACTED, That:

8 (a) (1) On or before November 1, 2009, the Secretary of Budget and
9 Management, in conjunction with the Secretary of Natural Resources and the
10 Secretary of the Environment, shall develop and submit to the Legislative Policy
11 Committee a comprehensive and practicable plan for the consolidation of all powers,
12 duties, functions, and staff of the departments, officers, and units administered in the
13 Department of the Environment and the Department of Natural Resources.

14 (2) The plan required under paragraph (1) of this section shall include:

15 (i) all necessary legislation to fully implement the provisions of
16 this Act on or before July 1, 2010;

17 (ii) provisions for the elimination or modification of duplicative
18 units, programs, and services and unnecessary management, professional and skilled
19 services, and special appointment positions in existence in the Department of the
20 Environment and the Department of Natural Resources on or before October 1, 2009;
21 and

22 (iii) an inventory of all capital facilities operated by the
23 Department of the Environment and the Department of Natural Resources, and
24 provisions for the consolidation of the facilities and all satellite operations and the
25 disposition of property and supplies rendered excessive as a result of the abolishment
26 of the Department of the Environment.

27 (b) The plan developed in accordance with subsection (a)(1) of this section,
28 and any legislation to implement it, shall establish a target percentage budget
29 reduction of 20% of the total of the combined general funds originally appropriated in
30 fiscal year 2010 for the Department of the Environment and the Department of
31 Natural Resources. The target percentage established by this subsection:

32 (1) shall become effective in the fiscal year 2011 State budget; and

33 (2) is not intended to affect allocations related to grants received from
34 sources other than State government.

35 SECTION 4. AND BE IT FURTHER ENACTED, That the plan required by
36 Section 3 of this Act shall contain specific proposals related to:

1 (a) the continued advancement of the interests of Maryland's natural
2 environment;

3 (b) services, programs, or functions currently offered by the Department of
4 the Environment and the Department of Natural Resources that shall:

5 (1) become fiscally self-sustaining through the imposition or
6 enhancement of application, registration, license, service, or other appropriate fees;

7 (2) be eliminated because they are no longer in demand or are
8 duplicated elsewhere;

9 (3) be transferred to other agencies currently responsible for related
10 public purposes and responsibilities, including the Department of Business and
11 Economic Development, the Department of Health and Mental Hygiene, and any other
12 appropriate Executive agency;

13 (4) by consolidation, be reduced in size, staffing, and other financial
14 requirements while still maintaining the essential nature of the service, program, or
15 function; and

16 (5) by privatization, shift the delivery of services or programs from the
17 public sector to the private sector; and

18 (c) any other areas in which financial savings may be realized through the
19 internal realignment of functions, including personnel and procurement.

20 SECTION 5. AND BE IT FURTHER ENACTED, That:

21 (a) The plan required by Section 3 of this Act shall give due consideration to
22 providing, to the extent possible, employees, other than those at the Deputy or
23 Assistant Secretary level, who will be affected by the reorganization encompassed in
24 the plan, the option of transferring to another position in State service.

25 (b) An employee transferred under this Act shall be appointed without
26 further examination or qualification. To the extent possible, the employee shall be
27 placed in a classification that is comparable in duties and responsibilities to the
28 employee's former position. The employee may not suffer a diminution of salary or
29 wages, accrued leave, whether earned or granted, retirement status, or seniority
30 rights.

31 SECTION 6. AND BE IT FURTHER ENACTED, That all appropriations,
32 including State and federal funds, held by the Department of the Environment to
33 carry out the functions and programs transferred under this Act shall be transferred
34 to the Department of Natural Resources on the effective date of this Act.

35 SECTION 7. AND BE IT FURTHER ENACTED, That nothing in this Act
36 affects the terms of office of an appointed or elected member of any division, board,

1 commission, authority, council, committee, office, or unit. An individual who is a
2 member of a division, board, commission, authority, council, committee, office, or unit
3 on the effective date of this Act shall remain a member for the balance of the term to
4 which the member is appointed or elected, unless the member sooner dies, resigns, or
5 is removed under provisions of law.

6 SECTION 8. AND BE IT FURTHER ENACTED, That, except as expressly
7 provided to the contrary in this Act, any transaction affected by or flowing from any
8 statute here amended, repealed, or transferred, and validly entered into before the
9 effective date of this Act, and every right, duty, or interest following from the
10 transaction, remains valid after the effective date of this Act and may be terminated,
11 completed, consummated, or enforced in accordance with law.

12 SECTION 9. AND BE IT FURTHER ENACTED, That the publishers of the
13 Annotated Code of Maryland, in consultation with and subject to the approval of the
14 Department of Legislative Services, shall correct, with no further action required by
15 the General Assembly, cross-references and terminology rendered incorrect by this
16 Act or by any other Act of the General Assembly of 2009 that affects provisions
17 enacted by this Act. The publishers shall adequately describe any such correction in an
18 editor's note following the section affected.

19 SECTION 10. AND BE IT FURTHER ENACTED, That, except as otherwise
20 provided by law, all existing laws, regulations, proposed regulations, standards and
21 guidelines, policies, orders and other directives, forms, plans, memberships, contracts,
22 property, investigations, administrative and judicial responsibilities, rights to sue and
23 be sued, and all other duties and responsibilities associated with the functions of the
24 Department of the Environment before the effective date of this Act shall continue in
25 effect under the Department of Natural Resources until completed, withdrawn,
26 canceled, modified, or otherwise changed in accordance with law.

27 SECTION 11. AND BE IT FURTHER ENACTED, That any person licensed,
28 registered, permitted, or certified under any department, agency, office, or unit
29 transferred by this Act is considered for all purposes to be licensed, registered,
30 permitted, or certified for the duration of the term for which the license, registration,
31 permit, or certification was issued, and may renew that authorization in accordance
32 with the appropriate renewal provisions provided under this Act. Any person that was
33 originally licensed, registered, permitted, or certified under a provision of law that has
34 been repealed by this Act as obsolete or inconsistent with this Act continues to meet
35 the requirements of the license, registration, permit, or certification to the same extent
36 as though that provision had not been repealed.

37 SECTION 12. AND BE IT FURTHER ENACTED, That all bonds, notes, bond
38 anticipation notes, notes in the nature of commercial paper, or other instruments,
39 certificates or evidence of indebtedness or obligation issued by the Department of the
40 Environment, or any division, agency, authority, body corporate or politic, or public
41 instrumentality within or under the Department of the Environment, or issued on
42 behalf of the Department of the Environment or the State, are valid, legal, binding,

1 and enforceable obligations to the extent of the obligation as provided in the bonds,
2 notes, instruments, certificates, or evidence of indebtedness.

3 SECTION 13. AND BE IT FURTHER ENACTED, That:

4 (a) For fiscal year 2011, the Governor shall include in the State budget an
5 appropriation for the Department of Natural Resources that is consistent with the
6 plan and legislation submitted to the General Assembly in accordance with this Act.

7 (b) In order to facilitate comparison between expenditures in previous years
8 and the fiscal year 2011 allowance, the budget submitted for the Department of
9 Natural Resources for fiscal year 2011 shall conform to the actual budget figures for
10 fiscal year 2009 and the appropriation figures for fiscal year 2010 to a budget code
11 structure newly formulated to reflect the consolidation and restructuring required
12 under this Act.

13 SECTION 14. AND BE IT FURTHER ENACTED, That all laws or parts of
14 laws, public general or public local, or regulations inconsistent with this Act are
15 repealed to the extent of the inconsistency.

16 SECTION 15. AND BE IT FURTHER ENACTED, That, on or before January 1,
17 2011, January 1, 2012, and January 1, 2013, the Secretary of Natural Resources shall
18 submit to the Governor and, subject to § 2-1246 of the State Government Article, the
19 General Assembly a progress report on the implementation of this Act. Each report
20 shall summarize the operation of the Department of Natural Resources under the
21 structure formulated as a result of this Act and shall include recommendations and
22 any appropriate legislative proposals for additional cost-saving measures and
23 enhanced efficiency of operations.

24 SECTION 16. AND BE IT FURTHER ENACTED, That if any provision of this
25 Act or the application thereof to any person or circumstance is held invalid for any
26 reason in a court of competent jurisdiction, the invalidity does not affect other
27 provisions or any other application of this Act which can be given effect without the
28 invalid provision or application, and for this purpose the provisions of this Act are
29 declared severable.

30 SECTION 17. AND BE IT FURTHER ENACTED, That this Act shall take
31 effect October 1, 2009.