

CHAPTER 679

(House Bill 550)

AN ACT concerning

Special Police Commissions – Recommended Denial of Application – Appeals

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

BY repealing and reenacting, with amendments,

Article – Public Safety

Section 3–305

Annotated Code of Maryland

(2003 Volume and 2008 Supplement)

BY repealing and reenacting, without amendments,

Article – Public Safety

Section 3–306

Annotated Code of Maryland

(2003 Volume and 2008 Supplement)

BY repealing and reenacting, without amendments,

Article – State Government

Section 10–202(a) and (d)

Annotated Code of Maryland

(2004 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 – Public Safety

3–305.

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

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

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

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

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

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

(i) the results of the investigation;

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

[and]

(iii) the reasons for the recommendation; AND

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

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

3-306.

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

(b) The commission shall indicate:

(1) the term of the commission; and

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

Article – State Government

10–202.

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

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

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

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

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

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

Approved by the Governor, May 19, 2009.