

SENATE BILL 454

P5

EMERGENCY BILL

11r0356

By: **The President (By Request – Department of Legislative Services)**

Introduced and read first time: February 4, 2011

Assigned to: Rules

Committee Report: Favorable

Senate action: Adopted

Read second time: February 16, 2011

CHAPTER _____

1 AN ACT concerning

2 **Annual Curative Bill**

3 FOR the purpose of generally curing previous Acts of the General Assembly with
4 possible title defects; altering the date by which Queen Anne's County is
5 required to file its annual financial report for the fiscal year with the
6 Department of Legislative Services; altering the date by which St. Mary's
7 County is required to file its annual financial report for the fiscal year with the
8 Department of Legislative Services; authorizing the reserve investments of an
9 insurer to include securities lending, repurchase, reverse repurchase, and dollar
10 roll transactions with business entities, subject to certain requirements;
11 authorizing certain nonprofit organizations to market and sell certain
12 commemorative hunting licenses in cooperation with the Department of Natural
13 Resources; requiring the proceeds from sales of certain hunting licenses to be
14 used to fund conservation law enforcement by the Natural Resources Police
15 Force; authorizing the Department of Natural Resources to adopt regulations to
16 carry out certain provisions relating to commemorative hunting licenses;
17 authorizing a person in certain counties to hunt deer on private property with a
18 crossbow on certain Sundays, subject to certain provisions; authorizing the
19 Board of County Commissioners of Cecil County to enact an ordinance to allow
20 collective bargaining between the Board of County Commissioners and a certain
21 representative of certain employees in the Division of Emergency Medical
22 Services concerning certain issues; requiring that the proceeds of the loan under
23 Chapter 523 of the Acts of 2010 be expended not later than a certain number of
24 years after the issuance of the bonds authorized under the Act; establishing
25 that, except as otherwise provided, provisions of law relating to certain rights of

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 State correctional officers supersede inconsistent provisions of certain other
2 State and local laws; establishing that the Administrative Procedure Act
3 governs to the extent that certain provisions of law relating to procedures for
4 certain correctional officer hearing boards are inconsistent with the
5 Administrative Procedure Act; providing for the effect and construction of
6 certain provisions of this Act; making this Act an emergency measure; and
7 generally repealing and reenacting without amendments certain Acts of the
8 General Assembly that may be subject to possible title defects in order to
9 validate those Acts.

10 BY repealing and reenacting, without amendments,
11 Article 19 – Comptroller
12 Section 37
13 Annotated Code of Maryland
14 (2005 Replacement Volume and 2010 Supplement)

15 BY repealing and reenacting, without amendments,
16 Article – Insurance
17 Section 5–608(t)
18 Annotated Code of Maryland
19 (2003 Replacement Volume and 2010 Supplement)

20 BY repealing and reenacting, without amendments,
21 Article – Natural Resources
22 Section 10–301.3 and 10–410(a)
23 Annotated Code of Maryland
24 (2007 Replacement Volume and 2010 Supplement)

25 BY repealing and reenacting, without amendments,
26 Article – Public Utilities
27 Section 12–128
28 Annotated Code of Maryland
29 (2010 Replacement Volume)

30 BY repealing and reenacting, without amendments,
31 The Public Local Laws of Cecil County
32 Section 15–13
33 Article 8 – Public Local Laws of Maryland
34 (1989 Edition and November 2010 Supplement, as amended)
35 (As enacted by Chapter 602 of the Acts of the General Assembly of 2010)

36 BY repealing and reenacting, without amendments,
37 Chapter 485 of the Acts of the General Assembly of 2009, as amended by
38 Chapter 483 of the Acts of the General Assembly of 2010
39 Section 1(3) Item KA05(E) and Item VE01(B)

40 BY repealing and reenacting, without amendments,

1 Chapter 523 of the Acts of the General Assembly of 2010
2 Section 1(8)

3 BY repealing and reenacting, without amendments,
4 Article – Correctional Services
5 Section 10–903 and 10–909
6 Annotated Code of Maryland
7 (2008 Replacement Volume and 2010 Supplement)

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

10 **Article 19 – Comptroller**

11 37.

12 (a) (1) Except as provided in paragraph (2) of this subsection, each
13 county, municipal corporation, and taxing district in the State shall by the first day of
14 November after the close of the fiscal year file with the Department of Legislative
15 Services its financial report covering the full period of that fiscal year.

16 (2) (i) Each county, municipal corporation, or taxing district with a
17 population of more than 400,000 may by the first day of January after the close of the
18 fiscal year file with the Department of Legislative Services its financial report
19 covering the full period of that fiscal year.

20 (ii) Unless subparagraph (i) of this paragraph applies, Howard
21 County may by the first day of December after the close of the fiscal year file with the
22 Department of Legislative Services its financial report covering the full period of that
23 fiscal year.

24 (iii) Frederick County may by the first day of January after the
25 close of the fiscal year file with the Department of Legislative Services its financial
26 report covering the full period of that fiscal year.

27 (iv) Queen Anne’s County may by the first day of January after
28 the close of the fiscal year file with the Department of Legislative Services its financial
29 report covering the full period of that fiscal year.

30 (v) St. Mary’s County may by the first day of January after the
31 close of the fiscal year file with the Department of Legislative Services its financial
32 report covering the full period of that fiscal year.

33 (vi) Wicomico County may by the first day of January after the
34 close of the fiscal year file with the Department of Legislative Services its financial
35 report covering the full period of that fiscal year.

1 (b) The reports required by subsection (a) of this section shall be:

2 (1) Properly filled in on the form or forms established by the
3 Department as provided in this subtitle; and

4 (2) Verified by the chief executive officer of each county, municipal
5 corporation, and taxing district.

6 DRAFTER'S NOTE:

7 Error: Purpose paragraphs of bills being cured failed to accurately describe the
8 changes made by the bills.

9 Occurred: Chapter 642 (Senate Bill 994) and Chapter 682 (House Bill 511) of
10 the Acts of 2010.

11 **Article – Insurance**

12 5–608.

13 (t) (1) The reserve investments of an insurer may include securities
14 lending, repurchase, reverse repurchase, and dollar roll transactions with business
15 entities, subject to the requirements of paragraphs (2) through (9) of this subsection.

16 (2) (i) The insurer's board of directors shall adopt a written plan
17 that specifies guidelines and objectives to be followed, such as:

18 1. a description of how cash received will be invested or
19 used for general corporate purposes of the insurer;

20 2. operational procedures to manage interest rate risk,
21 counterparty default risk, the conditions under which proceeds from reverse
22 repurchase transactions may be used in the ordinary course of business, and the use of
23 acceptable collateral in a manner that reflects the liquidity needs of the transaction;
24 and

25 3. the extent to which the insurer may engage in these
26 transactions.

27 (ii) The insurer shall file with the Commissioner the written
28 plan including all changes and amendments to the written plan for use in the State on
29 or before the date the plan becomes effective.

30 (3) (i) The insurer shall enter into a written agreement for all
31 transactions authorized under this subsection other than dollar roll transactions.

1 (ii) The written agreement shall require that each transaction
2 terminate no more than 1 year from its inception or on the earlier demand of the
3 insurer.

4 (iii) The agreement shall be with the business entity
5 counterparty, but for securities lending transactions, the agreement may be with an
6 agent acting on behalf of the insurer, if the agent is a qualified business entity, and if
7 the agreement:

8 1. requires the agent to enter into separate agreements
9 with each counterparty that are consistent with the requirements of this section; and

10 2. prohibits securities lending transactions under the
11 agreement with the agent or its affiliates.

12 (4) (i) Cash received in a transaction under this subsection shall be
13 invested in accordance with this subtitle and in a manner that recognizes the liquidity
14 needs of the transaction or used by the insurer for its general corporate purposes.

15 (ii) For so long as the transaction remains outstanding, the
16 insurer, its agent, or its custodian shall maintain, as to acceptable collateral received
17 in a transaction under this subsection, either physically or through the book entry
18 systems of the Federal Reserve, Depository Trust Company, Participants Trust
19 Company, or other securities depositories approved by the Commissioner:

20 1. possession of the acceptable collateral;

21 2. a perfected security interest in the acceptable
22 collateral; or

23 3. in the case of a jurisdiction outside the United States,
24 title to, or rights of a secured creditor to, the acceptable collateral.

25 (5) (i) The limitations of § 5-606(a) of this subtitle do not apply to
26 the business entity counterparty exposure created by transactions under this
27 subsection.

28 (ii) For purposes of calculations made to determine compliance
29 with this subsection, no effect will be given to the insurer's future obligation to resell
30 securities, in the case of a repurchase transaction, or to repurchase securities, in the
31 case of a reverse repurchase transaction.

32 (iii) An insurer may not enter into a transaction under this
33 subsection if, as a result of and after giving effect to the transaction:

1 1. A. the aggregate amount of securities then loaned,
2 sold to, or purchased from any one business entity counterparty under this subsection
3 would exceed 5% of its admitted assets; and

4 B. in calculating the amount sold to or purchased from a
5 business entity counterparty under repurchase or reverse repurchase transactions,
6 effect may be given to netting provisions under a master written agreement; or

7 2. the aggregate amount of all securities then loaned,
8 sold to, or purchased from all business entities under this subsection would exceed
9 40% of its admitted assets.

10 (6) (i) In a securities lending transaction, the insurer shall receive
11 acceptable collateral having a market value as of the transaction date at least equal to
12 102% of the market value of the securities loaned by the insurer in the transaction as
13 of that date.

14 (ii) If at any time the market value of the acceptable collateral
15 is less than the market value of the loaned securities, the business entity counterparty
16 shall be obligated to deliver additional acceptable collateral, the market value of
17 which, together with the market value of all acceptable collateral then held in
18 connection with the transaction, at least equals 102% of the market value of the
19 loaned securities.

20 (7) (i) In a reverse repurchase transaction, other than a dollar roll
21 transaction, the insurer shall receive acceptable collateral having a market value as of
22 the transaction date at least equal to 95% of the market value of the securities
23 transferred by the insurer in the transaction as of that date.

24 (ii) If at any time the market value of the acceptable collateral
25 is less than 95% of the market value of the securities so transferred, the business
26 entity counterparty shall be obligated to deliver additional acceptable collateral, the
27 market value of which, together with the market value of all acceptable collateral then
28 held in connection with the transaction, at least equals 95% of the market value of the
29 transferred securities.

30 (8) In a dollar roll transaction, the insurer shall receive cash in an
31 amount at least equal to the market value of the securities transferred by the insurer
32 in the transaction as of the transaction date.

33 (9) (i) In a repurchase transaction, the insurer shall receive as
34 acceptable collateral transferred securities having a market value at least equal to
35 102% of the purchase price paid by the insurer for the securities.

36 (ii) If at any time the market value of the acceptable collateral
37 is less than 100% of the purchase price paid by the insurer, the business entity
38 counterparty shall be obligated to provide additional acceptable collateral, the market

1 value of which, together with the market value of all acceptable collateral then held in
2 connection with the transaction, at least equals 102% of the purchase price.

3 (iii) Securities acquired by an insurer in a repurchase
4 transaction may not be sold in a reverse repurchase transaction, loaned in a securities
5 lending transaction, or otherwise pledged.

6 DRAFTER'S NOTE:

7 Error: Purpose paragraph of bill being cured failed to accurately describe the
8 changes made by the bill.

9 Occurred: Chapter 120 (House Bill 69) of the Acts of 2010.

10 Article – Natural Resources

11 10–301.3.

12 (a) There is a commemorative lifetime hunting license.

13 (b) The Department shall issue a limited number of commemorative lifetime
14 hunting licenses to certain nonprofit organizations, consistent with eligibility criteria
15 developed by the Department, until December 31, 2011.

16 (c) Nonprofit organizations issued hunting licenses under this section may,
17 in cooperation with the Department, market and sell the hunting licenses.

18 (d) All proceeds from sales of hunting licenses under this section shall be
19 used by the Department to fund conservation law enforcement by the Natural
20 Resources Police Force.

21 (e) The Department may adopt regulations to carry out the provisions of this
22 section.

23 DRAFTER'S NOTE:

24 Error: Purpose paragraph of bill being cured failed to accurately describe the
25 changes made by the bill.

26 Occurred: Chapter 367 (Senate Bill 987) of the Acts of 2010.

27 10–410.

28 (a) (1) Except as provided in paragraphs (2), (3), and (4) of this
29 subsection, a person may not hunt any game bird or mammal on Sundays.

1 (2) The following persons may hunt the specified game birds and
2 mammals on Sundays:

3 (i) A person using State certified raptors to hunt game birds or
4 mammals during open season;

5 (ii) An unarmed person participating in an organized fox chase
6 to chase foxes;

7 (iii) Provided that the provisions of § 10–906(b)(3) of this title are
8 met, a person:

9 1. Using a regulated shooting ground under § 10–906 of
10 this title to hunt the following pen–reared game birds:

11 A. Pheasants;

12 B. Bobwhite quail;

13 C. Chukar partridge;

14 D. Hungarian partridge;

15 E. Tower released flighted mallard ducks; and

16 F. Turkey on a regulated shooting ground that was
17 permitted to release turkey before September 1, 1992; and

18 2. Having the written permission of the owner of the
19 land or other person designated by the owner of the land, if the land is owned or leased
20 by a person other than the person hunting on Sundays;

21 (iv) Subject to the provisions of § 10–411 of this subtitle, in
22 Allegany, Calvert, Charles, Dorchester, Frederick, Garrett, St. Mary’s, Somerset,
23 Talbot, Washington, Wicomico, and Worcester counties, a person hunting deer on
24 private property with a bow and arrow or crossbow during open season on the last
25 three Sundays in October and the second Sunday in November; and

26 (v) Except on Easter Sunday, in Allegany County and Garrett
27 County, a person hunting turkey on the last Sunday in April and the first Sunday in
28 May.

29 (3) Subject to the provisions of § 10–415 of this subtitle, in Calvert
30 County, Charles County, and St. Mary’s County, a person may hunt deer on private
31 property on:

1 (i) The first Sunday of the bow hunting season in November;
2 and

3 (ii) Each Sunday in the deer firearms season.

4 (4) Provided that the provisions of § 10–415 of this subtitle are met
5 and subject to paragraph (5) of this subsection, the Department may allow a person to
6 hunt deer on private property on the first Sunday of:

7 (i) The bow hunting season in November; and

8 (ii) The deer firearms season.

9 (5) The Sunday deer hunting provisions under paragraph (4) of this
10 subsection do not apply:

11 (i) In Baltimore, Carroll, Howard, and Prince George’s counties;
12 and

13 (ii) In Baltimore City.

14 DRAFTER’S NOTE:

15 Error: Purpose paragraph of bill being cured failed to accurately describe the
16 changes made by the bill.

17 Occurred: Chapter 666 (House Bill 301) of the Acts of 2010.

18 **Article – Public Utilities**

19 12–128.

20 (a) A political subdivision, municipal corporation, the Department of
21 Transportation, an administration of the Department of Transportation, or the
22 Maryland Transportation Authority may charge, assess, or collect from a person a
23 one–time initial marking fee not exceeding \$35 for reimbursement of expenses that the
24 political subdivision, municipal corporation, the Department of Transportation, an
25 administration of the Department of Transportation, or the Maryland Transportation
26 Authority incurs to comply with this subtitle.

27 (b) If re–marking is requested, or is required after renotification under §
28 12–108(b) of this subtitle, a political subdivision, municipal corporation, or any of the
29 transportation entities specified in subsection (a) of this section may charge, assess, or
30 collect from a person a re–marking fee not exceeding \$15 for reimbursement of
31 expenses that the political subdivision, municipal corporation, or any of the
32 transportation entities specified in subsection (a) of this section incurs to comply with
33 this subtitle.

1 DRAFTER'S NOTE:

2 Error: Function paragraph of bill being cured incorrectly indicated that §
3 12–128 of the Public Utility Companies Article (which was renamed to be the Public
4 Utilities Article by Chapter 37 of the Acts of 2010) was unamended.

5 Occurred: Chapter 635 (Senate Bill 911) of the Acts of 2010.

6 **Article 8 – Cecil County**

7 15–13.

8 A. (1) In this section the following words have the meanings indicated.

9 (2) (a) “Collective bargaining” means to meet in good faith at
10 reasonable times to attempt to negotiate an agreement concerning subjects of
11 bargaining authorized by law.

12 (b) “Collective bargaining” does not include a meeting in which
13 only representatives of the Board of County Commissioners are in attendance or a
14 meeting in which only representatives of the exclusive representative are in
15 attendance.

16 (3) “Employee” means a regular, nonexempt, uniformed employee
17 within the Cecil County Division of Emergency Medical Services at the rank of captain
18 or below.

19 (4) “Employee organization” means an organization of employees that,
20 as one of its primary purposes, represents employees in collective bargaining with the
21 employer.

22 (5) “Exclusive representative” means the employee organization that
23 has been certified through an election by eligible employees or otherwise recognized by
24 the Board of County Commissioners to represent and negotiate for those employees
25 with the Board of County Commissioners terms and conditions of employment.

26 B. The Board of County Commissioners may enact an ordinance to:

27 (1) Authorize recognition of an exclusive representative by election or
28 voluntary recognition through a check of authorization cards at the Board’s option and
29 provide a process for such authorization;

30 (2) Authorize withdrawal of recognition of an exclusive representative
31 based on circumstances specified in the ordinance and provide a process for the
32 withdrawal;

1 (3) Allow collective bargaining between the Board of County
2 Commissioners and the exclusive representative of its employees concerning terms
3 and conditions of employment, and a process to resolve disagreements concerning the
4 interpretation of any agreement made between the exclusive representative and the
5 Board;

6 (4) Set forth the subjects of collective bargaining and the rights
7 reserved by the Board from those subjects;

8 (5) Set forth the time frames of the collective bargaining process;

9 (6) Provide rules of conduct for collective bargaining; and

10 (7) Provide a process and remedies for violations of established rules.

11 C. Once authorized by an ordinance, collective bargaining between the
12 Board of County Commissioners and the exclusive representative shall include a
13 memorandum of understanding concerning the agreements made as a result of
14 bargaining.

15 D. Subject to an annual exercise of authority concerning fiscal procedures in
16 State law or county ordinance, a memorandum of understanding between the Board of
17 County Commissioners and an exclusive representative shall be binding on the Board
18 and the exclusive representative.

19 E. The Board of County Commissioners may retain or designate individuals
20 to negotiate on its behalf with the exclusive representative.

21 F. This section does not:

22 (1) Authorize or otherwise permit an employee to engage in a strike
23 as defined in § 3–303 of the State Personnel and Pensions Article of the Annotated
24 Code of Maryland;

25 (2) Authorize or otherwise permit the County to engage in a lockout
26 as defined in § 3–304 of the State Personnel and Pensions Article of the Annotated
27 Code of Maryland;

28 (3) Require any method, means, or scope of bargaining between the
29 Board of County Commissioners and an exclusive representative;

30 (4) Authorize binding interest arbitration; and

31 (5) Authorize the collection of mandatory membership fees from
32 nonmembers of the employee organization.

33 DRAFTER'S NOTE:

1 Error: Purpose paragraph of bill being cured failed to accurately describe the
2 changes made by the bill.

3 Occurred: Chapter 602 (Senate Bill 731) of the Acts of 2010.

4 **Chapter 485 of the Acts of 2009, as amended by Chapter 483 of the Acts of**
5 **2010**

6 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
7 MARYLAND, That:

8 (3)

9 DEPARTMENT OF NATURAL RESOURCES

10 KA05 CAPITAL GRANTS AND LOANS ADMINISTRATION
11 (Statewide)

12 (E) Program Open Space. Provide funds for the purchase of conservation easements
13 and acquisition of land66,260,559

14 DRAFTER’S NOTE:

15 Error: Function paragraph of bill being cured incorrectly indicated that
16 Chapter 485 of the Acts of 2009, Section 1(3) Item KA05(A)(6), rather than Item
17 KA05(E), was being amended.

18 Occurred: Chapter 483 (Senate Bill 142) of the Acts of 2010.

19 DEPARTMENT OF JUVENILE SERVICES

20 VE01 RESIDENTIAL SERVICES

21 (B) Baltimore Regional Treatment Center. Provide funds to acquire land for a new
22 treatment center, provided that before the Departments of Juvenile Services
23 and General Services acquire or lease land for a new treatment center, the
24 departments shall submit a report to the budget committees detailing the site
25 selection process including:

26 (1) site selection criteria;

27 (2) written appraisals;

28 (3) what other sites were considered and why they were rejected; and

1 (4) the extent to which the departments pursued already publicly
2 owned property.

3 The budget committees shall have 45 days from the receipt of the report to
4 review and comment. (Regional) 0

5 DRAFTER’S NOTE:

6 Error: Function paragraph of bill being cured failed to adequately describe the
7 changes made to Chapter 485 of the Acts of 2009, Section 1(3) Item VE01(B).

8 Occurred: Chapter 483 (Senate Bill 142) of the Acts of 2010.

9 **Chapter 523 of the Acts of 2010**

10 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
11 MARYLAND, That:

12 (8) The proceeds of the loan shall be expended for the purposes provided in
13 this Act not later than 3 years after the issuance of the bonds authorized under this
14 Act.

15 DRAFTER’S NOTE:

16 Error: Typographical error in purpose paragraph of bill being cured.

17 Occurred: Chapter 523 (Senate Bill 202) of the Acts of 2010.

18 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
19 read as follows:

20 **Article – Correctional Services**

21 10–903.

22 (a) Except as otherwise provided, the provisions of this subtitle supersede
23 any inconsistent provisions of any other State law, including § 11–106 of the State
24 Personnel and Pensions Article, that conflict with this subtitle to the extent of the
25 conflict.

26 (b) This subtitle does not limit the authority of the appointing authority to
27 regulate the competent and effective operation and management of a State
28 correctional facility by reasonable means including the transfer and reassignment of
29 employees if:

30 (1) that action is not punitive in nature; and

1 (2) the appointing authority determines that action to be in the best
2 interests of the internal management of the correctional facility.

3 10-909.

4 (a) A correctional officer who has been charged with a felony may request a
5 stay of all charges and proceedings under this section until after a verdict has been
6 reached in the felony case.

7 (b) A correctional officer who has been convicted of a felony is not entitled to
8 a hearing under this section.

9 (c) (1) (i) The hearing board authorized under this section shall
10 consist of at least three members.

11 1. For correctional officers holding the rank of sergeant
12 or below, the hearing board shall be composed of two correctional officers who are
13 members of the bargaining unit, one of whom is the same rank as the correctional
14 officer facing charges, and one correctional officer ranked lieutenant or higher.

15 2. For correctional officers holding the rank of lieutenant
16 and above, the hearing board shall be composed of one correctional officer of equal
17 rank, one correctional officer of equal or lower rank, and one correctional officer of
18 equal or higher rank.

19 (ii) Correctional officers assigned to serve on a hearing board
20 shall be randomly selected from a rotating list of correctional officers eligible to serve
21 on disciplinary hearing boards maintained by the Department.

22 (iii) The Department, after consultation with the exclusive
23 representative for the correctional officers who are covered by this subtitle, shall
24 determine:

25 1. the manner of selection of correctional officers who
26 are eligible to serve on a rotating list; and

27 2. the manner of the selection of correctional officers for
28 a hearing board.

29 (iv) Correctional officers assigned to serve on a hearing board
30 shall be from a facility other than the facility to which the correctional officer facing
31 charges is regularly assigned, and may not have had a role in the investigation or the
32 interrogation of the correctional officer against whom the charges are filed, or be
33 involved in any way with the incidents that are the subject of the complaint.

34 (v) 1. The highest ranking member of the hearing board
35 shall serve as the hearing board chair.

- 1 2. The chair of the hearing board:
- 2 A. shall participate in any deliberations; but
- 3 B. may only vote on the decision in the event of a tie; and
- 4 C. may file a statement of position for the record.

5 3. The chair of the hearing board shall be from a
6 different facility than the other board members.

7 (vi) The appointing authority and the exclusive bargaining
8 representative may negotiate an alternative method of forming the hearing board for
9 members of the collective bargaining unit.

10 (2) (i) Decisions of the hearing board shall be by majority vote of
11 all members of the board.

12 (ii) The votes of the hearing board are confidential, and
13 decisions shall be reported by the chair.

14 (d) (1) In connection with a disciplinary hearing, the hearing board may
15 issue subpoenas to compel the attendance and testimony of witnesses and the
16 production of documents as relevant or necessary.

17 (2) The subpoenas may be served without cost in accordance with the
18 Maryland Rules that relate to service of process issued by a court.

19 (3) Each party may request the hearing board to issue a subpoena or
20 order under this subtitle.

21 (4) In case of refusal to obey a subpoena served under this subsection,
22 the parties to the proceeding may apply without cost to the circuit court of a county
23 where the subpoenaed party resides or conducts business, for an order to compel the
24 attendance and testimony of the witness or the production of the documents sought.

25 (5) On a finding that the attendance and testimony of the witness or
26 the production of the documents sought is relevant or necessary, the court may:

27 (i) issue without cost an order that requires the attendance and
28 testimony of witnesses or the production of documents; and

29 (ii) impose punishment for failure to obey the order.

30 (e) (1) The hearing shall be conducted by the hearing board.

1 (2) The hearing board shall give the Department and correctional
2 officer ample opportunity to present evidence and argument about the issues involved.

3 (3) (i) The correctional facility and correctional officer may be
4 represented by legal counsel they each may select.

5 (ii) In the alternative, a correctional officer may be represented:

6 1. by an agent of the exclusive representative of the
7 correctional officer designated under § 3–406 of the State Personnel and Pensions
8 Article; or

9 2. if the correctional officer is not within the bargaining
10 unit for which an exclusive representative is designated under § 3–406 of the State
11 Personnel and Pensions Article, by any person chosen by the correctional officer.

12 (4) Each party has the right to cross-examine witnesses who testify,
13 and each party may submit rebuttal evidence.

14 (f) (1) Evidence with probative value that is commonly accepted by
15 reasonable and prudent individuals in the conduct of their affairs is admissible and
16 shall be given probative effect.

17 (2) The hearing board shall give effect to the rules of privilege
18 recognized by law and may exclude incompetent, irrelevant, immaterial, and unduly
19 repetitious evidence.

20 (3) Each record or document that a party desires to use shall be
21 offered and made a part of the record.

22 (4) Documentary evidence may be received in the form of copies or
23 excerpts or by incorporation by reference.

24 (g) (1) The hearing board may take notice of:

25 (i) judicially and administratively cognizable facts; and

26 (ii) general, technical, or scientific facts within its specialized
27 knowledge.

28 (2) The hearing board shall:

29 (i) notify each party of the facts so noticed either before or
30 during the hearing or by reference in preliminary reports or otherwise; and

31 (ii) give each party an opportunity and reasonable time to
32 contest the facts so noticed.

1 (3) The hearing board may use its experience, technical competence,
2 and specialized knowledge in the evaluation of the evidence presented.

3 (h) The officiating member of a hearing board shall administer oaths or
4 affirmations and examine individuals under oath.

5 (i) (1) A correctional officer shall be granted release time from the
6 correctional officer's normal work schedule to attend a conference or hearing as a
7 witness.

8 (2) Expenses incurred in connection with attendance by a correctional
9 officer at conferences or hearings, whether as a grievant, as a grievant's
10 representative, or as a witness, shall be borne by the Department.

11 (j) An official record, including testimony and exhibits, shall be kept of the
12 hearing.

13 (k) To the extent that any provision of this section is inconsistent with the
14 Administrative Procedure Act, the Administrative Procedure Act shall govern.

15 DRAFTER'S NOTE:

16 Error: Purpose paragraph of bill being cured failed to accurately describe the
17 changes made by the bill.

18 Occurred: Chapter 194 (Senate Bill 887) of the Acts of 2010.

19 SECTION 3. AND BE IT FURTHER ENACTED, That the Drafter's Notes
20 contained in this Act are not law and may not be considered to have been enacted as
21 part of this Act.

22 SECTION 4. AND BE IT FURTHER ENACTED, That this Act is an emergency
23 measure, is necessary for the immediate preservation of the public health or safety,
24 has been passed by a yea and nay vote supported by three-fifths of all the members
25 elected to each of the two Houses of the General Assembly, and shall take effect from
26 the date it is enacted.