

# SENATE BILL 749

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By: **Senator Middleton**

Introduced and read first time: February 1, 2013

Assigned to: Finance

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## A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Automobile Insurance Fund – Operational Changes**

3 FOR the purpose of providing that the Maryland Automobile Insurance Fund is not  
4 subject to certain provisions of State law; providing that the Fund is subject to  
5 specified provisions of State law; providing that the Fund is independent of all  
6 State units; altering the composition, powers, and duties of the Board of  
7 Trustees of the Fund; requiring the Governor to appoint all members of the  
8 Board; requiring the Governor to consider the geographic and demographic  
9 diversity of the State in appointing individuals to the Board; altering the term  
10 of a member of the Board; altering the manner in which vacancies on the Board  
11 are filled; repealing certain provisions of law relating to a deemed resignation of  
12 a member of the Board; authorizing the Governor to remove a member of the  
13 Board for certain reasons; altering the compensation and reimbursement to  
14 which a member of the Board is entitled; providing that a member of the Board  
15 is not required to take compensation under certain circumstances; repealing a  
16 provision of law that requires compensation of the Executive Director of the  
17 Fund to be determined with the approval of the Governor; requiring the Board  
18 to employ certain attorneys for certain purposes; removing employees of the  
19 Fund from the State Personnel Management System except under certain  
20 circumstances; requiring the Executive Director to appoint and remove  
21 employees in accordance with certain policies; requiring the two members of the  
22 Board who serve on a certain financial committee to have certain expertise;  
23 repealing provisions of law that authorize the Legislative Auditor to conduct  
24 certain audits of the Fund; requiring a certain audit committee to require the  
25 Fund's internal auditors to conduct certain audits; exempting the Fund from  
26 certain State procurement law; clarifying that the employees of the Fund are  
27 authorized to participate in the State's health insurance program; clarifying  
28 that the employees of the Fund are eligible to participate in the State's pension  
29 system; providing for the initial terms of members of the Board; making  
30 stylistic, conforming, and clarifying changes; and generally relating to the  
31 Maryland Automobile Insurance Fund.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



- 1 BY repealing and reenacting, with amendments,  
2 Article – Insurance  
3 Section 20–201 through 20–204 and 20–303(a)  
4 Annotated Code of Maryland  
5 (2011 Replacement Volume and 2012 Supplement)
- 6 BY repealing  
7 Article – Insurance  
8 Section 20–304  
9 Annotated Code of Maryland  
10 (2011 Replacement Volume and 2012 Supplement)
- 11 BY adding to  
12 Article – Insurance  
13 Section 20–304  
14 Annotated Code of Maryland  
15 (2011 Replacement Volume and 2012 Supplement)
- 16 BY repealing and reenacting, with amendments,  
17 Article – State Finance and Procurement  
18 Section 11–203(a)(1)(ix) through (xix)  
19 Annotated Code of Maryland  
20 (2009 Replacement Volume and 2012 Supplement)
- 21 BY repealing and reenacting, with amendments,  
22 Article – State Personnel and Pensions  
23 Section 2–511 and 23–201(a)  
24 Annotated Code of Maryland  
25 (2009 Replacement Volume and 2012 Supplement)

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

28 **Article – Insurance**

29 20–201.

30 (a) There is a Maryland Automobile Insurance Fund.

31 **(B) THE FUND IS INDEPENDENT OF ALL STATE UNITS.**

32 **[(b)] (C)** The Fund is a member of the Property and Casualty Insurance  
33 Guaranty Corporation.

1           **[(c)] (D) (1) EXCEPT AS PROVIDED IN PARAGRAPHS (2) AND (3) OF**  
2 **THIS SUBSECTION, THE FUND IS NOT SUBJECT TO ANY LAW, INCLUDING § 6-106**  
3 **OF THE STATE GOVERNMENT ARTICLE, THAT AFFECTS GOVERNMENTAL UNITS.**

4           **(2)** In addition to the provisions of this title, the Fund is subject to  
5 Title 2, Subtitle 5 of this article.

6           **(3) THE FUND IS SUBJECT TO:**

7                   **(I) TITLE 10, SUBTITLE 6, PART III OF THE STATE**  
8 **GOVERNMENT ARTICLE;**

9                   **(II) TITLE 10, SUBTITLE 5 OF THE STATE GOVERNMENT**  
10 **ARTICLE;**

11                   **(III) THE MARYLAND PUBLIC ETHICS LAW;**

12                   **(IV) TITLE 12 OF THE STATE GOVERNMENT ARTICLE;**

13                   **(V) TITLE 5, SUBTITLE 3 OF THE STATE PERSONNEL AND**  
14 **PENSIONS ARTICLE; AND**

15                   **(VI) §§ 2-205, 2-209, AND 4-116 OF THIS ARTICLE.**

16           **(4) PARAGRAPH (1) OF THIS SUBSECTION DOES NOT AFFECT THE**  
17 **EXEMPTION FROM PROPERTY TAX UNDER § 7-210 OF THE TAX – PROPERTY**  
18 **ARTICLE.**

19 20-202.

20           (a) There is a Board of Trustees of the Fund.

21           (b) (1) The Board of Trustees consists of [13] 9 members [.

22                   (2) Of the 13 members:

23                           (i) seven shall be] appointed by the Governor with the advice  
24 and consent of the Senate[;

25                           (ii) five shall be appointed by the Board of Directors; and

26                           (iii) one shall be the Executive Director].



1           **(5)** If a member **OF THE BOARD OF TRUSTEES** [appointed by the  
2 Board of Directors] ceases to be a member of the Board [of Trustees], the [Board of  
3 Directors] **GOVERNOR** shall appoint a successor for the unexpired term.

4           **[(5)** A member appointed by the Board of Directors is deemed to have  
5 resigned, causing a vacancy on the Board of Trustees, if:

6                   (i) the member was employed by an Association member or  
7 insurance trade association when the member's term on the Board of Trustees began;  
8 and

9                   (ii) for any reason, the member's employment with the  
10 Association member or insurance trade association ends during the member's term on  
11 the Board of Trustees.]

12           **[(f) (G) [(1)]** The Board of Trustees shall choose a [chairman] **CHAIR**  
13 from among its members.

14                   **[(2)** For each successive term, the position of chairman shall alternate  
15 between a gubernatorial appointee and an Association appointee.

16                   (3) The Executive Director may not be the chairman of the Board of  
17 Trustees.]

18           **[(g) (H) THE GOVERNOR MAY REMOVE A MEMBER OF THE BOARD OF**  
19 **TRUSTEES FOR INCOMPETENCE OR MISCONDUCT.**

20           **(I) (1)** Each member of the Board of Trustees is entitled to:

21                   **[(1) (I) [per diem compensation set by the Board of Public Works for**  
22 each day actually engaged in the discharge of official duties, if the member is not  
23 otherwise an officer or employee of the State] **REASONABLE COMPENSATION:**

24                                   **1. IN THE FORM OF SALARY FOR WORK PERFORMED**  
25 **FOR THE BENEFIT OF THE FUND; AND**

26                                   **2. AS PROVIDED IN THE BUDGET OF THE BOARD OF**  
27 **TRUSTEES; and**

28                   **[(2) (II)** reimbursement for expenses:

29                                   **1. [under the Standard State Travel Regulations,]**  
30 **INCURRED IN THE PERFORMANCE OF THE MEMBER'S DUTIES; AND**

1                                   **2.**     as provided in the budget of the Board of Trustees.

2                                   **(2) NOTHING IN PARAGRAPH (1)(I) OF THIS SUBSECTION**  
 3 **REQUIRES A MEMBER OF THE BOARD OF TRUSTEES TO TAKE COMPENSATION IF**  
 4 **THE MEMBER HAS A CONFLICT OF INTEREST WITH OTHER EMPLOYMENT THAT**  
 5 **PRECLUDES THE MEMBER FROM TAKING COMPENSATION FOR WORK**  
 6 **PERFORMED FOR THE BENEFIT OF THE FUND.**

7                   **[(h) (J)]**     The Board of Trustees:

8                                   **(1)**     shall [formulate policy for the Fund] **ADOPT RULES,**  
 9 **BYLAWS, AND PROCEDURES; AND**

10                                   **(2)**     **MAY ADOPT ANY POLICY TO CARRY OUT THIS TITLE.**

11     20–203.

12                   (a)     (1)     The Board of Trustees shall:

13                                   **(I)**     appoint the Executive Director of the Fund [with the  
 14 approval of the Governor]; **AND**

15                                   **(II)**    **EMPLOY ATTORNEYS TO ADVISE AND REPRESENT THE**  
 16 **FUND IN ALL LEGAL MATTERS AND, WHERE NECESSARY, TO SUE OR DEFEND**  
 17 **SUITS IN THE NAME OF THE FUND.**

18                                   (2)     The Executive Director serves at the pleasure of the Board of  
 19 Trustees.

20                                   (3)     [The incumbent Executive Director may not vote on the choice of a  
 21 successor.

22                                   (4)]    If the Board of Trustees fails to agree on a successor **EXECUTIVE**  
 23 **DIRECTOR**, the Governor shall appoint the successor.

24                   (b)     (1)     The Executive Director:

25                                   (i)     is the administrative head of the Fund; and

26                                   (ii)    shall exercise the powers and perform the duties conferred  
 27 on the Fund by this title, except for those powers and duties conferred on the Board of  
 28 Trustees.

29                                   (2)     The Board of Trustees shall advise the Executive Director on the  
 30 exercise of the powers and duties conferred on the Executive Director by this title.

1 (c) The Board of Trustees shall determine the compensation of the Executive  
2 Director [with the approval of the Governor].

3 20–204.

4 (a) [(1) Except as provided in paragraph (2) of this subsection or otherwise  
5 by law, the Executive Director shall appoint and remove staff of the Fund in  
6 accordance with the provisions of the State Personnel and Pensions Article.

7 (2) Positions that the Executive Director designates with the approval  
8 of the Board of Trustees as technical or professional positions are in the executive  
9 service, management service, or are special appointments of the skilled service or the  
10 professional service in the State Personnel Management System.]

11 **(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**  
12 **SUBSECTION, EMPLOYEES OF THE FUND ARE NOT IN THE STATE PERSONNEL**  
13 **MANAGEMENT SYSTEM.**

14 **(2) A SKILLED SERVICE EMPLOYEE OF THE FUND HIRED BEFORE**  
15 **OCTOBER 1, 2013, IN A NONPROFESSIONAL OR NONTECHNICAL POSITION**  
16 **SHALL REMAIN IN THE SKILLED SERVICE IN THE STATE PERSONNEL**  
17 **MANAGEMENT SYSTEM OR ITS EQUIVALENT AS LONG AS THE EMPLOYEE**  
18 **REMAINS IN A NONPROFESSIONAL OR NONTECHNICAL POSITION WITH THE**  
19 **FUND.**

20 **(3) THE EXECUTIVE DIRECTOR SHALL APPOINT AND REMOVE**  
21 **EMPLOYEES OF THE FUND IN ACCORDANCE WITH THE POLICIES OF THE BOARD**  
22 **OF TRUSTEES.**

23 **[(3)] (4)** Notwithstanding any other provision of law, the Executive  
24 Director may appoint claims adjusters, attorneys, and other necessary personnel  
25 directly as employees or on a contract basis.

26 (b) The Executive Director shall determine and administer the compensation  
27 of the [personnel] **EMPLOYEES** of the Fund [designated under subsection (a)(2) of this  
28 section] with the approval of the Board of Trustees.

29 (c) Except as otherwise provided in this subtitle, an employee of the Fund is  
30 not subject to any law, regulation, or executive order governing State employee  
31 compensation, including furloughs, salary reductions, and any other General Fund  
32 cost-saving measure.

33 20–303.

1 (a) (1) A financial management committee of the Fund shall manage and  
2 invest all moneys collected by or for the Fund through premiums, earnings from  
3 investments, or from other sources.

4 (2) The financial management committee consists of the Executive  
5 Director and two members of the Board of Trustees [whom] **WHO HAVE FINANCIAL**  
6 **MANAGEMENT EXPERTISE, CHOSEN BY** the Board of Trustees [chooses].

7 [(3) Of the two members from the Board of Trustees:

8 (i) one shall be chosen from the members appointed by the  
9 Governor; and

10 (ii) one shall be chosen from the members appointed by the  
11 Association.]

12 [20–304.

13 (a) The Legislative Auditor:

14 (1) may conduct fiscal audits and compliance audits of the accounts  
15 and transactions of the Fund each year instead of every 2 years; and

16 (2) shall advise officials of the Fund whether audits will be conducted  
17 each year or every 2 years.

18 (b) (1) If an independent auditor conducts a fiscal audit of the Fund, the  
19 Legislative Auditor may not duplicate the fiscal audit for the same period.

20 (2) If, at the request of the Fund, the Legislative Auditor conducts the  
21 fiscal audit instead of an independent auditor, the Legislative Auditor may charge the  
22 Fund for the cost of the fiscal audit.

23 (c) An audit conducted in accordance with this section is in addition to and  
24 not instead of any audit or regulatory authority of the Commissioner.]

25 **20–304.**

26 **(A) (1) AN AUDIT COMMITTEE, COMPOSED OF MEMBERS OF THE**  
27 **BOARD OF TRUSTEES AND THE EXECUTIVE DIRECTOR, SHALL REQUIRE THE**  
28 **FUND’S INTERNAL AUDITOR TO CONDUCT FISCAL COMPLIANCE AND FISCAL**  
29 **AUDITS OF THE ACCOUNTS AND TRANSACTIONS OF THE FUND EACH YEAR.**

30 **(2) A FISCAL COMPLIANCE AUDIT SHALL:**



1                   **(I) EXAMINE FINANCIAL TRANSACTIONS AND RECORDS AND**  
 2 **INTERNAL CONTROLS;**

3                   **(II) EVALUATE COMPLIANCE WITH APPLICABLE LAWS AND**  
 4 **REGULATIONS; AND**

5                   **(III) EXAMINE ELECTRONIC DATA PROCESSING OPERATIONS.**

6           **(B) IF AN INDEPENDENT AUDITOR CONDUCTS A FISCAL AUDIT OF THE**  
 7 **FUND, THE AUDIT COMMITTEE SHALL DIRECT THE FUND'S INTERNAL AUDITORS**  
 8 **NOT TO DUPLICATE THE FISCAL AUDIT FOR THE SAME PERIOD.**

9                                   **Article – State Finance and Procurement**

10 11–203.

11           (a) Except as provided in subsection (b) of this section, this Division II does  
 12 not apply to:

13                   (1) procurement by:

14                                   (ix) [the Maryland Automobile Insurance Fund;

15                                   (x)] the Maryland Historical Trust for:

16   1. surveying and evaluating architecturally,  
 17 archeologically, historically, or culturally significant properties; and

18   2. other than as to architectural services, preparing  
 19 historic preservation planning documents and educational material;

20                                   [(xi)] **(X)** the University of Maryland, for University College  
 21 Overseas Programs, if the University adopts regulations that:

22   1. establish policies and procedures governing  
 23 procurement for University College Overseas Programs; and

24   2. promote the purposes stated in § 11–201(a) of this  
 25 subtitle;

26                                   [(xii)] **(XI)** the Department of Business and Economic  
 27 Development, for negotiating and entering into private sector cooperative marketing  
 28 projects that directly enhance promotion of Maryland and the tourism industry where  
 29 there will be a private sector contribution to the project of not less than 50% of the  
 30 total cost of the project, if the project is reviewed by the Attorney General and

1 approved by the Secretary of Business and Economic Development or the Secretary's  
2 designee;

3 [(xiii)] **(XII)** the Rural Maryland Council;

4 [(xiv)] **(XIII)** the Maryland State Lottery Agency, for negotiating  
5 and entering into private sector cooperative marketing projects that directly enhance  
6 promotion of the Maryland State Lottery and its products, if the cooperative  
7 marketing project:

8 1. provides a substantive promotional or marketing  
9 value that the lottery determines acceptable in exchange for advertising or other  
10 promotional activities provided by the lottery;

11 2. does not involve the advertising or other promotion of  
12 alcohol or tobacco products; and

13 3. is reviewed by the Attorney General and approved by  
14 the Maryland Lottery Director or the Director's designee;

15 [(xv)] **(XIV)** the Maryland Health Insurance Plan established  
16 under Title 14, Subtitle 5 of the Insurance Article;

17 [(xvi)] **(XV)** the Maryland Energy Administration, when  
18 negotiating or entering into grants or cooperative agreements with private entities to  
19 meet federal specifications or solicitation requirements related to energy conservation,  
20 energy efficiency, or renewable energy projects that benefit the State;

21 [(xvii)] **(XVI)** the Maryland Developmental Disabilities  
22 Administration of the Department of Health and Mental Hygiene for family and  
23 individual support services, and individual family care services, as those terms are  
24 defined by the Department of Health and Mental Hygiene in regulation;

25 [(xviii)] **(XVII)** the Department of General Services for the  
26 renovation of a structure that:

27 1. was built during the 18th or 19th century; and

28 2. is listed in or eligible for listing in the National  
29 Register of Historic Places; and

30 [(xix)] **(XVIII)** the Department of Natural Resources, for  
31 negotiating or entering into grants, agreements, or partnerships with nonprofit  
32 entities related to conservation service opportunities;

33 **Article – State Personnel and Pensions**

1 2-511.

2 (a) This section applies to employees of:

3 (1) the Maryland Environmental Service;

4 (2) the Northeast Maryland Waste Disposal Authority; [and]

5 (3) the Baltimore Metropolitan Council; AND

6 (4) **THE MARYLAND AUTOMOBILE INSURANCE FUND.**

7 (b) Subject to the regulations adopted under § 2-503 of this subtitle, an  
8 employee or, while receiving an allowance under the Employees' Retirement System of  
9 the State of Maryland or the Employees' Pension System of the State of Maryland, an  
10 employee's surviving spouse:

11 (1) may enroll and participate in the health insurance or other benefit  
12 options established under the Program; and

13 (2) except as provided in subsection (d) of this section, is subject to the  
14 same terms and conditions as those provided under § 2-507 of this subtitle.

15 (c) While receiving an allowance under the Employees' Retirement System of  
16 the State of Maryland or the Employees' Pension System of the State of Maryland, a  
17 former employee or a former employee's surviving spouse or dependent child:

18 (1) may enroll and participate in the health insurance benefit options  
19 established under the Program; and

20 (2) except as provided in subsection (d) of this section, is subject to the  
21 same terms and conditions as those provided under § 2-508 of this subtitle, with the  
22 employee's service with the Maryland Environmental Service, Northeast Maryland  
23 Waste Disposal Authority, [and] the Baltimore Metropolitan Council, AND THE  
24 **MARYLAND AUTOMOBILE INSURANCE FUND** being included as part of the  
25 employee's State service.

26 (d) For each participant under this section, the Maryland Environmental  
27 Service, the Northeast Maryland Waste Disposal Authority, [and] the Baltimore  
28 Metropolitan Council, AND THE **MARYLAND AUTOMOBILE INSURANCE FUND** or  
29 any successor agency, shall pay to the State the respective employer share of the cost  
30 of the Program based on the State subsidy allowed under this subtitle.

31 23-201.

1 (a) Except as provided in subsection (b) of this section, §§ 23–203 through  
2 23–205 of this subtitle apply only to:

3 (1) a regular employee whose compensation is provided by State  
4 appropriation or paid from State funds;

5 (2) an appointed or elected official of the State, including:

6 (i) a clerk of the circuit court;

7 (ii) a register of wills;

8 (iii) a State’s Attorney; and

9 (iv) a sheriff;

10 (3) an employee or official of a participating governmental unit who is  
11 eligible to participate under Title 31, Subtitle 1 of this article;

12 (4) an employee of the Office of the Sheriff of Baltimore City;

13 (5) an additional employee or agent of the State Racing Commission  
14 authorized by § 11–207 of the Business Regulation Article;

15 (6) a permanent employee of the board of supervisors of elections of a  
16 county;

17 (7) a full–time master in chancery or in juvenile causes who is  
18 appointed on or after July 1, 1989, in any county by the circuit court for that county;

19 (8) an employee of the Maryland Environmental Service who is a  
20 member of the Employees’ Pension System on June 30, 1993, or transfers from the  
21 Employees’ Retirement System on or after July 1, 1993;

22 (9) a former Baltimore City jail employee who became an employee of  
23 the Baltimore City Detention Center and a member of the Employees’ Pension System  
24 on July 1, 1991;

25 (10) a nonfaculty employee of the Baltimore City Community College  
26 who:

27 (i) is a member of the Employees’ Pension System on October 1,  
28 2002;

29 (ii) transfers from the Employees’ Retirement System on or  
30 after October 1, 2002;

1 (iii) transfers from the Teachers' Pension System in accordance  
2 with § 23–202.1 of this subtitle; or

3 (iv) becomes an employee of the Baltimore City Community  
4 College on or after October 1, 2002;

5 (11) a court reporter for the Circuit Court for Charles County who is a  
6 member of the Employees' Pension System on July 1, 1994, or transfers from the  
7 Employees' Retirement System on or after July 1, 1994;

8 (12) a staff employee of the University System of Maryland, Morgan  
9 State University, or St. Mary's College who is:

10 (i) a member of the Employees' Pension System on January 1,  
11 1998, or transfers from the Employees' Retirement System on or after January 1,  
12 1998; or

13 (ii) a staff employee of the University System of Maryland,  
14 Morgan State University, or St. Mary's College who becomes an employee on or after  
15 January 1, 1998;

16 (13) on or after the date that the Board of Education of Kent County  
17 begins participation in the Employees' Pension System, a supportive service employee  
18 of the Board of Education of Kent County;

19 (14) an employee of the Town of Oakland on or after the date that the  
20 Town of Oakland begins participation in the Employees' Pension System;

21 (15) an employee of the City of Frostburg on or after the date that the  
22 City of Frostburg begins participation in the Employees' Pension System;

23 (16) an employee of the Town of Berwyn Heights on or after the date  
24 that the Town of Berwyn Heights begins participation in the Employees' Pension  
25 System;

26 (17) an employee of the Town of Sykesville on or after the date that the  
27 Town of Sykesville begins participation in the Employees' Pension System; [and]

28 (18) an employee of the Town of University Park on or after the date  
29 that the Town of University Park begins participation in the Employees' Pension  
30 System; AND

31 **(19) AN EMPLOYEE OF THE MARYLAND AUTOMOBILE INSURANCE**  
32 **FUND ON OR AFTER THE DATE THAT THE MARYLAND AUTOMOBILE INSURANCE**  
33 **FUND BEGINS PARTICIPATION IN THE EMPLOYEE'S PENSION SYSTEM.**

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

1           (a)     The term for each member of the Board of Trustees of the Fund serving  
2 on September 30, 2013, expires effective October 1, 2013.

3           (b)     The initial of members of the Board of Trustees of the Fund shall begin  
4 on October 1, 2013, and expire as follows:

5                   (1)     two members in 2015;

6                   (2)     two in 2016;

7                   (3)     three members in 2017; and

8                   (4)     two in 2018.

9           SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
10 October 1, 2013.