

# SENATE BILL 639

P1

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CF HB 1042

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By: **Senator Bailey**

Introduced and read first time: February 6, 2023

Assigned to: Education, Energy, and the Environment

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 9, 2023

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

1 AN ACT concerning

2 **Historic St. Mary's City Commission Reform Act of 2023**

3 FOR the purpose of altering certain provisions of law governing the Historic St. Mary's City  
4 Commission, including laws relating to membership of the Commission,  
5 appointment of certain officers, meeting times, and duties; specifying the process for  
6 the Commission to collaborate with ~~the Historic St. Mary's City Foundation~~ an  
7 affiliated nonprofit organization; and generally relating to the Historic St. Mary's  
8 City Commission.

9 BY repealing and reenacting, with amendments,  
10 Article – Education  
11 Section 24–505, 24–506, 24–507(b), and 24–508  
12 Annotated Code of Maryland  
13 (2022 Replacement Volume)

14 BY adding to  
15 Article – Education  
16 Section 24–508.1 and 24–511(h)  
17 Annotated Code of Maryland  
18 (2022 Replacement Volume)

19 BY repealing and reenacting, without amendments,  
20 Article – Education  
21 Section 24–511(a)(1)  
22 Annotated Code of Maryland

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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.



(2022 Replacement Volume)

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

**Article – Education**

24–505.

(a) The Historic St. Mary’s City Commission consists of [seventeen members.

(b) Of the Commission] **THE FOLLOWING** members:

(1) [Thirteen] **FOURTEEN VOTING MEMBERS WHO** shall be appointed by  
the Governor with the advice and consent of the Senate as follows:

(i) Three shall be distinguished scholars, one of whom shall be an  
archaeologist, one of whom shall be a colonial historian, and one of whom shall be an  
educator;

(ii) One shall be a representative from a prominent historical  
museum;

(iii) Three shall be members of the Maryland business community,  
one of whom is in business in the St. Mary’s County community; ~~AND~~

(iv) [~~Six~~] ~~SEVEN~~ shall be members of the general public, at least two  
of whom are residents of the St. Mary’s County community; AND

**(V) ONE SHALL BE A REPRESENTATIVE OF THE NATIVE  
AMERICAN COMMUNITY, APPOINTED IN CONSULTATION WITH THE MARYLAND  
COMMISSION ON INDIAN AFFAIRS;**

**(2) TWO VOTING MEMBERS AS FOLLOWS:**

**(I) ONE MEMBER OF THE PUBLIC, APPOINTED BY THE  
PRESIDENT OF THE SENATE; AND**

**(II) ONE MEMBER OF THE PUBLIC, APPOINTED BY THE  
SPEAKER OF THE HOUSE; AND**

**[(2)] (3)** Two shall be ex officio [voting] members as follows:

(i) The chairman of the St. Mary’s College of Maryland Board of  
Trustees or the chairman’s designee **WHO IS A VOTING MEMBER;** and

1 (ii) The President of the Historic St. Mary's Foundation[; and

2 (3) Two shall be ex officio nonvoting members as follows:

3 (i) The President of the Senate of Maryland or the President's  
4 designee; and

5 (ii) The Speaker of the House of Delegates or the Speaker's designee]

6 **WHO IS A NONVOTING MEMBER.**

7 **[(c)] (B)** The Governor shall consider statewide, regional, and minority  
8 representation in making appointments to the Commission.

9 **[(d)] (C)** (1) The term of a member of the Commission, excluding an ex officio  
10 member, is 4 years and until a successor is appointed and qualifies. These terms are  
11 staggered as required by the terms of members as of July 1, 1997.

12 (2) A member appointed to fill a vacancy in an unexpired term serves only  
13 for the remainder of that term and until a successor is appointed and qualifies.

14 (3) A member may be appointed to no more than two full consecutive terms.  
15 A member who has served less than a full 4-year term may be reappointed to two full  
16 terms.

17 24-506.

18 (a) (1) From among its members the Commission shall elect:

19 (i) A chairman;

20 (ii) A vice chairman; and

21 (iii) Any other officer the Commission requires.

22 (2) **(I) [The] SUBJECT TO SUBPARAGRAPH (II) OF THIS**  
23 **PARAGRAPH, THE** manner of election of officers and their terms of office shall be as the  
24 Commission determines.

25 **(II) OFFICERS OF THE COMMISSION SHALL BE SELECTED FROM**  
26 **THE APPOINTED MEMBERS OF THE COMMISSION.**

27 (b) (1) The Commission shall adopt bylaws setting forth the manner in which  
28 it will conduct its business and otherwise carry out the duties assigned to it, including the  
29 establishment of standing committees to propose policies, review operations, and advise the  
30 Commission in the areas of:

1 (i) Land use, archaeology, historical research, collections  
2 management, and capital projects;

3 (ii) Educational programming, public programs, and public affairs  
4 with a view to expanding the knowledge of and appreciation for Historic St. Mary's City to  
5 the region, State, and nation;

6 (iii) Long-range planning, fund-raising, from both public and private  
7 sources, as well as other revenue raising programs with a view to securing long-term  
8 financial capital and operating support for Historic St. Mary's City; and

9 (iv) Financial and administrative affairs, including property  
10 management, personnel, procurement, legal, accounting, audit, and investment policies.

11 (2) The chairman of the Commission shall appoint each Commissioner to  
12 one of the standing committees and such other committees as the Commission from time to  
13 time determines to appoint for special purposes. The chairman shall designate a chair of  
14 each committee.

15 (c) (1) There shall be an executive committee of the Commission which shall  
16 have as its members the chairman, the vice chairman, and the chair of each standing  
17 committee.

18 (2) The executive committee shall be delegated such powers as the  
19 Commission shall determine by resolution or by law and shall report to the full Commission  
20 all actions taken or considered by the committee at the next meeting of the full Commission.

21 (d) (1) **(I)** The full Commission shall meet at least two times a year at  
22 Historic St. Mary's City.

23 **(II) THE FULL COMMISSION MAY MEET MORE THAN TWO TIMES**  
24 **A YEAR AT HISTORIC ST. MARY'S CITY OR VIRTUALLY.**

25 **(2)** The executive committee shall meet at least four times a year, or such  
26 additional meetings as are necessary or convenient for the proper direction of Historic St.  
27 Mary's City.

28 **(3)** Standing committees shall meet or confer as necessary to review and  
29 recommend action to the executive committee or full Commission, as the case may be, as  
30 issues within their purview arise.

31 **[(2)] (4)** A majority of the voting members then serving on the  
32 Commission is a quorum.

1 (e) A Commissioner may not receive compensation, but is entitled to be  
2 reimbursed for expenses incurred while actually engaged in the performance of the  
3 Commissioner's duties in accordance with the Standard State Travel Regulations.

4 24-507.

5 (b) In addition to any duties provided elsewhere in this subtitle, the Commission  
6 has the following duties:

7 (1) To maintain and carry out the mission of Historic St. Mary's City;

8 (2) To protect and preserve the historical and archaeological resources  
9 found within the boundaries of Historic St. Mary's City;

10 (3) To identify, study, curate, interpret, and develop the significant historic  
11 and archaeological resources of Historic St. Mary's City with emphasis on the 17th century  
12 colonial period;

13 (4) To enhance the role of Historic St. Mary's City as a statewide  
14 educational center for historical archaeology and Maryland colonial history and ultimately  
15 to raise national awareness of the place of St. Mary's City, its history, people, and ideas in  
16 our nation's development;

17 (5) To develop close working relationships with public and private  
18 elementary and secondary schools, local and statewide businesses and governmental  
19 agencies, and conduct activities to educate the general public about the history and  
20 significance of Historic St. Mary's City to the State of Maryland and the nation;

21 (6) To seek private and other public grants, gifts, bequests, endowments,  
22 and legacies for the development and use of Historic St. Mary's City;

23 (7) To review and comment on all plans for use and development of the  
24 archaeologically or historically significant land and real property of St. Mary's College of  
25 Maryland during the initial planning stage, to conduct such review at a special or regular  
26 meeting of the Commission after public notice of the general nature of the plans to be  
27 reviewed by the Commission, and thereafter to forward all such comments coincident with  
28 any submission made by the College pursuant to § 3-602 of the State Finance and  
29 Procurement Article;

30 (8) To prepare an overall strategic plan at least once every 5 years that  
31 establishes both short-range and long-range goals, objectives, and priorities for Historic  
32 St. Mary's City in support of its mission; [and]

33 **(9) TO DEVELOP AND PUBLISH WRITTEN POLICIES REGARDING THE**  
34 **COMMISSION'S OPERATING PROCEDURES, INCLUDING POLICIES ON:**

35 **(I) PROCUREMENT;**

1 (II) HUMAN RESOURCES;

2 (III) PAYROLL;

3 (IV) CASH MANAGEMENT;

4 (V) FLEET MANAGEMENT; AND

5 (VI) PROPERTY MANAGEMENT, INCLUDING RENTAL TENANT  
6 WAITING LISTS;

7 (10) TO DEVELOP A COMPREHENSIVE MAINTENANCE PLAN AND TO  
8 UPDATE THE PLAN AT LEAST ONCE EVERY 3 YEARS;

9 (11) TO ANNUALLY REVIEW:

10 (I) THE COMMISSION'S OPERATING AGREEMENTS; AND

11 (II) THE COMMISSION'S POLICIES ON OPERATING  
12 PROCEDURES; AND

13 [(9)] (12) To report annually to the Governor, and subject to § 2-1257 of  
14 the State Government Article, to the General Assembly as to the Commission's activities  
15 during the preceding year, including specifically:

16 (i) The number of students served as well as the type and numbers  
17 of all other visitors;

18 (ii) The number of volunteers and total hours contributed to the  
19 operation of the museum;

20 (iii) The amount and types of private and nonstate funds donated,  
21 pledged, or otherwise provided; and

22 (iv) Any recommendations or requests the Commission considers  
23 appropriate to further the mission of Historic St. Mary's City.

24 24-508.

25 (a) (1) The Historic St. Mary's City Commission and the Board of Trustees of  
26 St. Mary's College of Maryland are hereby authorized to undertake joint programs and  
27 otherwise to work collaboratively under contract or other agreement acceptable to the  
28 governing boards of each institution, for the purpose of furthering the missions of both  
29 institutions.

1           **[(b)] (2)** The Commission and the College may contract or otherwise agree to  
2 work jointly to sponsor high quality education programs and activities for both the  
3 academic and general communities and for all age groups, including elementary, secondary,  
4 college, and adult education programs as well as teacher training programs in curriculum  
5 areas of joint focus, such as archaeology, colonial American history, and Chesapeake  
6 culture and ecology.

7           **[(c)] (3)** The Commission and College may develop jointly beneficial,  
8 promotional, marketing, fundraising, tourism, special events, and other outreach efforts.

9           **[(d)] (4)** The College and Commission may by contract **[or mutual agreement]**  
10 perform administrative tasks by one institution for the other including, but not limited to,  
11 personnel, procurement and insurance claim processing, purchasing, accounting,  
12 information system design, acquisition, installation and service, security, maintenance,  
13 historic landscape design, catering and general food services, and archaeological survey  
14 and mitigation services.

15           **[(e)] (5)** Provided they are supportive of the distinctive mission of each  
16 institution, the Commission and College may undertake any other joint activity or action  
17 by formal or informal agreement or contract.

18           **[(f)] (6)** Notwithstanding any joint activities or programs carried out by the  
19 College and the Commission, or administrative action undertaken by the College or the  
20 Commission for the benefit of the other institution, neither the College nor the Commission  
21 shall be liable for any direct or indirect actions of the other institution, or its trustees,  
22 Commissioners, employees, or agents as the case may be.

23           **(7) IF THE COMMISSION OBTAINS SERVICES UNDER AN AGREEMENT**  
24 **WITH THE COLLEGE, THE SERVICES PROVIDED TO THE COMMISSION SHALL BE IN**  
25 **ACCORDANCE WITH THE COLLEGE'S POLICIES AND PROCEDURES.**

26           **(B) AN OPERATING AGREEMENT ENTERED INTO BY THE COMMISSION WITH**  
27 **ANOTHER UNIT OF STATE GOVERNMENT OR AN AFFILIATED NONPROFIT**  
28 **ORGANIZATION SHALL BE:**

29                   **(1) EXECUTED IN WRITING;**

30                   **(2) APPROVED FOR FORM AND LEGAL SUFFICIENCY BY THE**  
31 **ATTORNEY GENERAL;**

32                   **(3) REVIEWED BY THE COMMISSION ANNUALLY; AND**

33                   **(4) ENACTED FOR A TERM NOT EXCEEDING 3 YEARS, WHICH MAY BE**  
34 **RENEWED FOR ADDITIONAL TERMS NOT EXCEEDING 3 YEARS, WITHOUT LIMIT.**

1 24-508.1.

2 (A) IN THIS SECTION, "~~FOUNDATION~~ AFFILIATED NONPROFIT  
3 ORGANIZATION" ~~MEANS INCLUDES~~ THE HISTORIC ST. MARY'S CITY FOUNDATION.

4 (B) THE COMMISSION IS ENCOURAGED TO PROMOTE PRIVATE  
5 FUNDRAISING BY STRENGTHENING INSTITUTIONAL DEVELOPMENT ACTIVITIES AND  
6 MAY COLLABORATE WITH ~~THE HISTORIC ST. MARY'S CITY FOUNDATION~~  
7 AFFILIATED NONPROFIT ORGANIZATIONS.

8 (C) (1) THE COMMISSION SHALL DEVELOP POLICIES FOR  
9 COLLABORATION WITH ~~THE FOUNDATION~~ AN AFFILIATED NONPROFIT  
10 ORGANIZATION.

11 (2) THE ATTORNEY GENERAL SHALL REVIEW THE POLICIES THE  
12 COMMISSION DEVELOPS UNDER PARAGRAPH (1) OF THIS SUBSECTION FOR FORM  
13 AND LEGAL SUFFICIENCY AND, IF APPROPRIATE, APPROVE THEM TO GOVERN THE  
14 COLLABORATION.

15 (3) THE STATE ETHICS COMMISSION SHALL REVIEW THE POLICIES  
16 THE COMMISSION DEVELOPS UNDER PARAGRAPH (1) OF THIS SUBSECTION THAT  
17 PERTAIN TO CONFLICTS OF INTEREST AND, IF APPROPRIATE, APPROVE THEM TO  
18 GOVERN AN OFFICIAL OR EMPLOYEE OF THE COMMISSION ALSO SERVING AS A  
19 DIRECTOR OR OFFICIAL OF ~~THE FOUNDATION~~ AN AFFILIATED NONPROFIT  
20 ORGANIZATION.

21 (D) (1) ~~THE FOUNDATION~~ AN AFFILIATED NONPROFIT ORGANIZATION  
22 MAY NOT BE CONSIDERED AN AGENCY OR INSTRUMENTALITY OF THE STATE OR A  
23 UNIT OF THE EXECUTIVE BRANCH FOR ANY PURPOSE.

24 (2) A FINANCIAL OBLIGATION OR LIABILITY OF ~~THE FOUNDATION~~ AN  
25 AFFILIATED NONPROFIT ORGANIZATION MAY NOT BE CONSIDERED A DEBT OR AN  
26 OBLIGATION OF THE STATE OR THE COMMISSION.

27 (E) (1) SECTIONS 5-501 THROUGH 5-504 OF THE GENERAL PROVISIONS  
28 ARTICLE DO NOT PROHIBIT AN OFFICIAL OR EMPLOYEE OF THE COMMISSION FROM  
29 ALSO BECOMING A DIRECTOR OR AN OFFICIAL OF ~~THE FOUNDATION~~ AN AFFILIATED  
30 NONPROFIT ORGANIZATION.

31 (2) AN OFFICIAL OR EMPLOYEE OF THE COMMISSION WHO SERVES AS  
32 A DIRECTOR OR OFFICIAL OF ~~THE FOUNDATION~~ AN AFFILIATED NONPROFIT  
33 ORGANIZATION:

1 (I) MAY NOT BE COMPENSATED, DIRECTLY OR INDIRECTLY, BY  
2 ~~THE FOUNDATION~~ AN AFFILIATED NONPROFIT ORGANIZATION; AND

3 (II) MAY BE REIMBURSED FOR BONA FIDE EXPENSES INCURRED  
4 IN THE PERFORMANCE OF ACTIVITIES UNDERTAKEN ON BEHALF OF ~~THE~~  
5 ~~FOUNDATION~~ AN AFFILIATED NONPROFIT ORGANIZATION AS AUTHORIZED BY THE  
6 BOARD OF DIRECTORS OF ~~THE FOUNDATION~~ AN AFFILIATED NONPROFIT  
7 ORGANIZATION AND BY THE COMMISSION.

8 (3) (I) THE COMMISSION SHALL NOTIFY THE STATE ETHICS  
9 COMMISSION IN WRITING WHENEVER THE COMMISSION AUTHORIZES AN OFFICIAL  
10 OR EMPLOYEE OF THE COMMISSION TO SERVE AS A DIRECTOR OR OFFICIAL OF ~~THE~~  
11 ~~FOUNDATION~~ AN AFFILIATED NONPROFIT ORGANIZATION.

12 (II) WITHIN 30 DAYS AFTER RECEIPT OF THE NOTICE UNDER  
13 SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE STATE ETHICS COMMISSION SHALL  
14 NOTIFY THE COMMISSION OF ANY OBJECTIONS OR CONCERNS PERTAINING TO THE  
15 JOINT SERVICE IDENTIFIED IN THE NOTICE.

16 (III) ON RECEIPT OF A NOTICE FROM THE STATE ETHICS  
17 COMMISSION UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE COMMISSION  
18 SHALL REEXAMINE THE MATTER.

19 (4) EACH YEAR, THE COMMISSION SHALL REPORT TO THE  
20 GOVERNOR, THE STATE ETHICS COMMISSION, AND, IN ACCORDANCE WITH § 2-1257  
21 OF THE STATE GOVERNMENT ARTICLE, THE LEGISLATIVE POLICY COMMITTEE:

22 (I) THE NAMES OF THE OFFICIALS AND EMPLOYEES SERVING  
23 AS A DIRECTOR OR OFFICIAL OF ~~THE FOUNDATION~~ AN AFFILIATED NONPROFIT  
24 ORGANIZATION; AND

25 (II) HOW THE POLICIES AND PROCEDURES ADOPTED UNDER  
26 SUBSECTION (C) OF THIS SECTION HAVE BEEN IMPLEMENTED IN THE PRECEDING  
27 YEAR.

28 (F) (1) NO FUNDS MAY BE ACCEPTED BY THE COMMISSION FROM ~~THE~~  
29 ~~FOUNDATION~~ AN AFFILIATED NONPROFIT ORGANIZATION UNLESS AN  
30 INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT AUDITS THE FISCAL AFFAIRS OF  
31 ~~THE FOUNDATION~~ AFFILIATED NONPROFIT ORGANIZATION EACH YEAR.

32 (2) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS  
33 PARAGRAPH, FUNDS GIVEN TO THE COMMISSION BY ~~THE FOUNDATION~~ AN  
34 AFFILIATED NONPROFIT ORGANIZATION MAY NOT INCLUDE PRECONDITIONS ON  
35 THE USE OF THE FUNDS.

1 (II) FUNDS GIVEN TO THE COMMISSION THROUGH ~~THE~~  
 2 ~~FOUNDATION~~ AN AFFILIATED NONPROFIT ORGANIZATION FROM A DONOR MAY  
 3 INCLUDE CONDITIONS AT THE DONOR'S REQUEST.

4 24-511.

5 (a) (1) There is a Historic St. Mary's City Fund.

6 (H) THE FUND IS SUBJECT TO AUDIT BY THE OFFICE OF LEGISLATIVE  
 7 AUDITS AS PROVIDED IN § 2-1220 OF THE STATE GOVERNMENT ARTICLE.

8 SECTION 2. AND BE IT FURTHER ENACTED, That a presently existing obligation  
 9 or contract right may not be impaired in any way by this Act.

10 SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That, on or before December 31,  
 11 2023, the Historic St. Mary's City Commission shall report to the General Assembly, in  
 12 accordance with § 2-1257 of the State Government Article, on the Commission's progress  
 13 in addressing the concerns raised by its most recent independent audit.

14 SECTION ~~3.~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take effect  
 15 June 1, 2023.

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.