

BY: Delegate Gaines
(To be offered in the Appropriations Committee)

AMENDMENTS TO HOUSE BILL 815
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 2, after "Maryland" insert "Department of"; in the same line, strike "Authority Police Officers -" and substitute "Police Force - Creation and"; strike beginning with "authorizing" in line 3 down through "Act;" in line 18 and substitute "establishing the Maryland Department of Transportation Police Force and abolishing the Maryland Transportation Authority Police Force; providing for the powers and duties of Maryland Department of Transportation police officers; requiring the Secretary of Transportation and the chief police officer of the Maryland Department of Transportation Police Force to adopt certain regulations; requiring the Maryland Department of Transportation Police Force to provide certain police services to certain departmental units; providing for the transfer of certain employees under certain circumstances; providing for pensions for certain employees; authorizing the chief police officer of the Maryland Department of Transportation Police Force to appoint certain employees to exercise certain powers; expanding the application of certain provisions of law relating to collective bargaining to certain Maryland Department of Transportation police officers; providing that the provisions of law do not apply to Maryland Department of Transportation police officers who are supervisory, managerial, or confidential employees, as defined in a certain manner; requiring the Maryland Department of Transportation police officers to have a separate bargaining unit; providing for certain transfers under this Act; providing for the continuity of certain units, laws, standards, policies, papers, agreements, and responsibilities; providing for the continuity of certain transactions, rights, duties, and interests; providing for the continuity of certain persons licensed, registered, permitted, and certified under certain departments, offices, and units; providing for the continuity of certain contracts, agreements, grants, or other obligations; requiring the Maryland Transportation Authority to pay certain expenses; requiring the publisher of the Annotated Code of Maryland, in consultation with the Department of Legislative

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Services, to make technical corrections; requiring the Secretary of Transportation to enter into a certain memorandum of understanding with the Executive Secretary of the Authority; requiring the Secretary to submit a certain report to the Governor and the General Assembly; making technical and conforming changes;; in line 18, after “to” insert “the Maryland Department of Transportation Police Force and the”; in line 19, after “Maryland” insert “Department of”; in the same line, strike “Authority”; and strike in their entirety lines 20 through 24, inclusive, and substitute:

“BY repealing and reenacting, with amendments,

Article – State Personnel and Pensions

Section 3-101(b), 3-102(a) and (b)(11) and (12), 3-205(a), and 3-2A-05(a)

Annotated Code of Maryland

(2009 Replacement Volume and 2009 Supplement)

BY adding to

Article – State Personnel and Pensions

Section 3-102(b)(13) and 3-403(f)

Annotated Code of Maryland

(2009 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,

Article - Transportation

Section 2-107

Annotated Code of Maryland

(2008 Replacement Volume and 2009 Supplement)

BY adding to

Article - Transportation

Section 2-301 and 2-302

Annotated Code of Maryland

(2008 Replacement Volume and 2009 Supplement)

BY repealing

Article - Transportation

Section 4-208 and 4-208.1

Annotated Code of Maryland

(2008 Replacement Volume and 2009 Supplement)."

AMENDMENT NO. 2

On page 1, after line 26, insert:

"Article – State Personnel and Pensions

3-101.

(b) "Board" means:

(1) with regard to any matter relating to employees of any of the units of State government described in § [3-102(a)(1) through (4)] 3-102(A)(1)(I) THROUGH (IV) of this subtitle AND EMPLOYEES DESCRIBED IN § 3-102(A)(2) OF THIS SUBTITLE, the State Labor Relations Board; and

(2) with regard to any matter relating to employees of any State institution of higher education described in § [3-102(a)(5)] 3-102(A)(1)(V) of this subtitle, the State Higher Education Labor Relations Board.

3-102.

(a) Except as provided in this title or as otherwise provided by law, this title applies to:

(1) all employees of:

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[(1)] (I) the principal departments within the Executive Branch of State government;

[(2)] (II) the Maryland Insurance Administration;

[(3)] (III) the State Department of Assessments and Taxation;

[(4)] (IV) the State Lottery Agency; and

[(5)] (V) the University System of Maryland, Morgan State University, St. Mary's College of Maryland, and Baltimore City Community College;
AND

(2) ALL FULL-TIME MARYLAND DEPARTMENT OF TRANSPORTATION POLICE OFFICERS AT THE RANK OF FIRST SERGEANT AND BELOW.

(b) This title does not apply to:

(11) any supervisory, managerial, or confidential employee of a unit of State government listed in subsection [(a)(1) through (4)] (A)(1)(I) THROUGH (IV) of this section, as defined in regulations adopted by the Secretary; [or]

(12) any supervisory, managerial, or confidential employee of a State institution of higher education listed in subsection [(a)(5)] (A)(1)(V) of this section, as defined in regulations adopted by the governing board of the institution; OR

(13) ANY EMPLOYEE DESCRIBED IN SUBSECTION (A)(2) OF THIS SECTION WHO IS A SUPERVISORY, MANAGERIAL, OR CONFIDENTIAL EMPLOYEE, AS DEFINED IN REGULATIONS ADOPTED BY THE SECRETARY.

3-205.

(a) The Board is responsible for administering and enforcing provisions of this title relating to employees described in § [3-102(a)(1) through (4)] 3-102(A)(1)(I) THROUGH (IV) AND (2) of this title.

3-2A-05.

(a) The Board is responsible for administering and enforcing provisions of this title relating to employees described in § [3-102(a)(5)] 3-102(A)(1)(V) of this title.

3-403.

(F) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, MARYLAND DEPARTMENT OF TRANSPORTATION POLICE OFFICERS AT THE RANK OF FIRST SERGEANT AND BELOW SHALL HAVE A SEPARATE BARGAINING UNIT.

Article – Transportation

2-107.

(a) The following units are in the Department:

- (1) Maryland Aviation Administration;
- (2) Maryland Port Administration;
- (3) Maryland Transit Administration;
- (4) State Highway Administration;

- (5) Motor Vehicle Administration;
- (6) Board of Airport Zoning Appeals;
- (7) State Roads Commission;
- (8) Transportation Professional Services Selection Board; [and]
- (9) Maryland Transportation Commission; AND
- (10) MARYLAND DEPARTMENT OF TRANSPORTATION POLICE FORCE.

(b) The Department also includes any other unit that, in accordance with law, is declared to be in the Department.

2-301.

(A) (1) THERE IS A MARYLAND DEPARTMENT OF TRANSPORTATION POLICE FORCE.

(2) SUBJECT TO SUBSECTION (B) OF THIS SECTION, A MARYLAND DEPARTMENT OF TRANSPORTATION POLICE OFFICER HAS ALL THE POWERS GRANTED TO A PEACE OFFICER AND A POLICE OFFICER OF THIS STATE.

(3) FUNDING FOR THE MARYLAND DEPARTMENT OF TRANSPORTATION POLICE FORCE SHALL BE AS PROVIDED IN THE STATE BUDGET.

(B) (1) A MARYLAND DEPARTMENT OF TRANSPORTATION POLICE OFFICER MAY EXERCISE THE POWERS DESCRIBED IN SUBSECTION (A)(2) OF THIS SECTION ON PROPERTY OWNED, LEASED, OR OPERATED BY OR UNDER THE CONTROL OF THE MARYLAND TRANSPORTATION AUTHORITY, THE MARYLAND AVIATION ADMINISTRATION, AND THE MARYLAND PORT ADMINISTRATION.

(2) (1) THIS PARAGRAPH DOES NOT APPLY TO A HIGHWAY AS DEFINED IN § 8-101 OF THIS ARTICLE OR OTHER PUBLIC PROPERTY OR WATERWAY OPEN FOR PUBLIC CONVEYANCE.

(II) FOR PURPOSES OF ESTABLISHING PERIMETER SECURITY SUBJECT TO THE REQUIREMENTS OF PARAGRAPH (3) OF THIS SUBSECTION, A MARYLAND DEPARTMENT OF TRANSPORTATION POLICE OFFICER MAY EXERCISE THE POWERS DESCRIBED IN SUBSECTION (A)(2) OF THIS SECTION:

1. WITHIN 500 FEET OF PROPERTY DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION; AND

2. ON OR WITHIN 500 FEET OF ANY OTHER PROPERTY OWNED, LEASED, OPERATED BY, OR UNDER THE CONTROL OF THE DEPARTMENT.

(3) A MARYLAND DEPARTMENT OF TRANSPORTATION POLICE OFFICER MAY EXERCISE THE POWERS DESCRIBED IN PARAGRAPH (2) OF THIS SUBSECTION IF:

(I) THE SECRETARY, WITH THE APPROVAL OF THE GOVERNOR, DETERMINES ON THE BASIS OF SPECIFIC AND ARTICULABLE FACTS

THAT THE EXERCISE OF THE POWERS IS REASONABLE TO PROTECT AGAINST ACTUAL OR THREATENED PHYSICAL INJURY OR DAMAGE TO STATE EMPLOYEES OR STATE PROPERTY OR ASSETS, AND PROVIDES NOTICE OF THE EXERCISE OF THE POWERS TO THE:

1. CHIEF OF POLICE, IF ANY, OR THE CHIEF'S DESIGNEE, IN A MUNICIPAL CORPORATION;

2. CHIEF OF POLICE OR THE CHIEF'S DESIGNEE IN A COUNTY WITH A COUNTY POLICE DEPARTMENT;

3. SHERIFF OR THE SHERIFF'S DESIGNEE IN A COUNTY WITHOUT A POLICE DEPARTMENT;

4. POLICE COMMISSIONER OR THE POLICE COMMISSIONER'S DESIGNEE IN BALTIMORE CITY;

5. SECRETARY OF NATURAL RESOURCES OR THE SECRETARY'S DESIGNEE ON ANY PROPERTY OWNED, LEASED, OPERATED BY, OR UNDER THE CONTROL OF THE DEPARTMENT OF NATURAL RESOURCES;

6. SECRETARY OF STATE POLICE OR THE SECRETARY'S DESIGNEE; OR

7. SECRETARY OF A PRINCIPAL DEPARTMENT THAT MAINTAINS A POLICE FORCE OR THE SECRETARY'S DESIGNEE IF THE DEPARTMENT WOULD BE AFFECTED BY THE ACTIONS OF THE MARYLAND DEPARTMENT OF TRANSPORTATION POLICE FORCE; OR

(II) THE POLICE OFFICER IS ORDERED TO DO SO BY THE GOVERNOR IN ACCORDANCE WITH A PROCLAMATION OR DECLARATION BY THE GOVERNOR OF A STATE OF EMERGENCY UNDER TITLE 14 OF THE PUBLIC SAFETY ARTICLE.

(4) A MARYLAND DEPARTMENT OF TRANSPORTATION POLICE OFFICER MAY NOT EXERCISE THE POWERS DESCRIBED IN SUBSECTION (A)(2) OF THIS SECTION ON ANY OTHER PROPERTY UNLESS THE POLICE OFFICER IS:

(I) ENGAGED IN FRESH PURSUIT OF A SUSPECTED OFFENDER;

(II) SPECIALLY REQUESTED OR PERMITTED TO DO SO IN A POLITICAL SUBDIVISION BY THE CHIEF EXECUTIVE OFFICER OR THE CHIEF POLICE OFFICER; OR

(III) ORDERED TO DO SO BY THE GOVERNOR.

(5) THIS SUBSECTION MAY NOT BE CONSTRUED TO PRECLUDE OR LIMIT THE AUTHORITY OF ANY FEDERAL, STATE, OR LOCAL LAW ENFORCEMENT AGENCY, OR ANY OTHER FEDERAL POLICE OR FEDERAL PROTECTIVE SERVICE.

(C) (1) IN CONSULTATION WITH THE SECRETARY OF STATE POLICE AND THE MARYLAND POLICE TRAINING COMMISSION, THE SECRETARY OF TRANSPORTATION SHALL ADOPT STANDARDS, QUALIFICATIONS, AND PREREQUISITES OF CHARACTER, TRAINING, EDUCATION, HUMAN AND PUBLIC RELATIONS SKILLS, AND EXPERIENCE FOR MARYLAND DEPARTMENT OF TRANSPORTATION POLICE OFFICERS, INCLUDING STANDARDS FOR THE PERFORMANCE OF THEIR DUTIES.

(2) TO THE EXTENT PRACTICABLE, THE SECRETARY OF TRANSPORTATION SHALL ADOPT STANDARDS THAT ARE SIMILAR TO THE STANDARDS ADOPTED FOR THE DEPARTMENT OF STATE POLICE.

(3) STANDARDS ADOPTED ON OR AFTER JULY 1, 2010, ON MINIMUM HIRING QUALIFICATIONS OF MARYLAND DEPARTMENT OF TRANSPORTATION POLICE OFFICERS MAY NOT AFFECT THE STATUS OF ANY INDIVIDUAL WHO WAS A QUALIFIED MARYLAND TRANSPORTATION AUTHORITY POLICE OFFICER ON JUNE 30, 2010.

(D) THE SECRETARY SHALL ADOPT REGULATIONS GOVERNING THE OPERATION AND CONDUCT OF THE MARYLAND DEPARTMENT OF TRANSPORTATION POLICE FORCE AND THE MARYLAND DEPARTMENT OF TRANSPORTATION POLICE OFFICERS.

(E) THE MARYLAND DEPARTMENT OF TRANSPORTATION POLICE FORCE SHALL PROVIDE POLICE SERVICES TO THE MARYLAND TRANSPORTATION AUTHORITY, THE MARYLAND AVIATION ADMINISTRATION, AND THE MARYLAND PORT ADMINISTRATION.

(F) (1) A PERSON WHO, AS OF JULY 1, 1977, WAS A MEMBER IN GOOD STANDING OF THE MARYLAND AVIATION ADMINISTRATION POLICE FORCE OF THE DEPARTMENT AND WHO WAS SUBSEQUENTLY AN AIRPORT POLICE EMPLOYEE OF THE STATE POLICE AND AN EMPLOYEE OF THE MARYLAND TRANSPORTATION AUTHORITY POLICE FORCE, SHALL:

(I) BECOME A MEMBER OF THE MARYLAND DEPARTMENT OF TRANSPORTATION POLICE FORCE, AND SHALL CONTINUE AS A MEMBER OF

THAT POLICE FORCE WITHOUT DIMINUTION IN SALARY, EXCEPT FOR SHIFT DIFFERENTIAL, UNTIL RETIREMENT, RESIGNATION, OR TERMINATION; AND

(II) BE PAID IN ACCORDANCE WITH THE MARYLAND DEPARTMENT OF TRANSPORTATION POLICE FORCE PAY PLAN.

(2) (I) A PERSON DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION SHALL REMAIN A MEMBER OF THE BALTIMORE CITY FIRE AND POLICE EMPLOYEES RETIREMENT SYSTEM.

(II) THE DEPARTMENT SHALL REIMBURSE BALTIMORE CITY FOR THE EMPLOYER'S COST FOR THE PENSION COVERAGE.

(G) (1) A PERSON WHO, AS OF JULY 1, 1998, WAS A MEMBER IN GOOD STANDING OF THE MARYLAND PORT ADMINISTRATION POLICE FORCE OF THE DEPARTMENT AND WHO WAS SUBSEQUENTLY AN EMPLOYEE OF THE MARYLAND TRANSPORTATION AUTHORITY POLICE FORCE SHALL:

(I) BECOME A MEMBER OF THE MARYLAND DEPARTMENT OF TRANSPORTATION POLICE FORCE AND SHALL CONTINUE AS A MEMBER OF THAT POLICE FORCE WITHOUT DIMINUTION IN SALARY UNTIL RETIREMENT, RESIGNATION, OR TERMINATION OF EMPLOYMENT; AND

(II) BE PAID IN ACCORDANCE WITH THE MARYLAND DEPARTMENT OF TRANSPORTATION POLICE FORCE PAY PLAN.

(2) A PERSON DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION MAY ELECT TO JOIN THE LAW ENFORCEMENT OFFICERS' PENSION

SYSTEM UNDER THE PROVISIONS OF TITLE 26 OF THE STATE PERSONNEL AND PENSIONS ARTICLE.

(H) A PERSON WHO, AS OF JULY 1, 2010, WAS A MEMBER IN GOOD STANDING OF THE MARYLAND TRANSPORTATION AUTHORITY POLICE SHALL:

(1) BECOME A MEMBER OF THE MARYLAND DEPARTMENT OF TRANSPORTATION POLICE FORCE AND SHALL CONTINUE AS A MEMBER OF THAT POLICE FORCE WITHOUT DIMINUTION IN SALARY UNTIL RETIREMENT, RESIGNATION, OR TERMINATION OF EMPLOYMENT; AND

(2) BE PAID IN ACCORDANCE WITH THE MARYLAND DEPARTMENT OF TRANSPORTATION POLICE FORCE PAY PLAN.

2-302.

(A) THE CHIEF POLICE OFFICER OF THE MARYLAND DEPARTMENT OF TRANSPORTATION POLICE FORCE MAY APPOINT EMPLOYEES OF THE DEPARTMENT TO EXERCISE THE POWERS SPECIFIED IN SUBSECTION (B) OF THIS SECTION.

(B) (1) AN EMPLOYEE APPOINTED UNDER THIS SECTION MAY ISSUE CITATIONS TO THE EXTENT AUTHORIZED BY THE CHIEF POLICE OFFICER FOR VIOLATIONS OF THE PROVISIONS OF § 5-426 OF THIS ARTICLE THAT RELATE TO MOTOR VEHICLE PARKING AT BALTIMORE-WASHINGTON INTERNATIONAL THURGOOD MARSHALL AIRPORT.

(2) THE ISSUANCE OF CITATIONS UNDER THIS SECTION SHALL COMPLY WITH THE REQUIREMENTS OF TITLE 26, SUBTITLE 3 OF THIS ARTICLE.

(C) THE CHIEF POLICE OFFICER, IN CONSULTATION WITH THE MARYLAND POLICE TRAINING COMMISSION, SHALL ADOPT REGULATIONS ESTABLISHING:

(1) QUALIFICATIONS FOR EMPLOYEES APPOINTED UNDER THIS SECTION, INCLUDING PREREQUISITES OF CHARACTER, TRAINING, EXPERIENCE, AND EDUCATION; AND

(2) STANDARDS FOR THE PERFORMANCE OF THE DUTIES ASSIGNED TO EMPLOYEES APPOINTED UNDER THIS SECTION.”

AMENDMENT NO. 3

On pages 1 through 4, strike in their entirety the lines beginning with line 27 on page 1 through line 30 on page 4, inclusive, and substitute:

“SECTION 2. AND BE IT FURTHER ENACTED, That, on July 1, 2010, all the functions, powers, duties, assets, liabilities, and employees of the Maryland Transportation Authority Police Force, including all buildings, land and marine vehicles, and equipment owned by the Maryland Transportation Authority that was dedicated to the use of the Maryland Transportation Authority Police Force on April 1, 2010, shall be transferred to the Maryland Department of Transportation Police Force.

SECTION 3. AND BE IT FURTHER ENACTED, That all expenses incurred by the Maryland Department of Transportation as a direct result of transitioning the Maryland Transportation Authority Police Force into the Maryland Department of Transportation Police Force shall be borne exclusively by the Maryland Transportation Authority.

SECTION 4. AND BE IT FURTHER ENACTED, That an employee transferred under this Act to the Maryland Department of Transportation Police Force shall be

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appointed without further examination or qualification. The employee shall be placed in a classification that is comparable in duties and responsibilities to the employee's former position. The employee may not suffer a diminution of salary or wages, accrued leave, whether earned or granted, or seniority rights.

SECTION 5. AND BE IT FURTHER ENACTED, That nothing in this Act affects the terms of office of an appointed or elected member of any division, board, commission, authority, council, committee, office, or unit. An individual who is a member of a division, board, commission, authority, council, committee, office, or unit on the effective date of this Act shall remain a member for the balance of the term to which the member is appointed or elected, unless the member sooner dies, resigns, or is removed under provisions of law.

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

SECTION 7. AND BE IT FURTHER ENACTED, That the publisher of the Annotated Code of Maryland, in consultation with and subject to the approval of the Department of Legislative Services, shall correct, with no further action required by the General Assembly, cross-references and terminology rendered incorrect by this Act or by any other act of the General Assembly of 2010 that affects provisions enacted by this Act. The publishers shall adequately describe any such correction in an editor's note following the section affected.

SECTION 8. AND BE IT FURTHER ENACTED, That, except as otherwise provided by law, all existing laws, regulations, proposed regulations, standards, guidelines, policies, orders and other directives, forms, plans, memberships, contracts, property, investigations, and administrative responsibilities associated with the

functions of the Maryland Transportation Authority Police Force prior to the effective date of this Act shall continue in effect under the Maryland Department of Transportation Police Force until completed, withdrawn, canceled, modified, or otherwise changed by law.

SECTION 9. AND BE IT FURTHER ENACTED, That, on or before July 1, 2010, the Secretary of Transportation shall enter into a memorandum of understanding with the Executive Secretary of the Maryland Transportation Authority regarding the provision of law enforcement services by the Maryland Department of Transportation Police Force on or around property owned, leased, or operated by or under the control of the Maryland Transportation Authority.

SECTION 10. AND BE IT FURTHER ENACTED, That, on or before October 1, 2010, the Secretary of Transportation shall report to the Governor and, in accordance with § 2-1246 of the State Government Article, to the General Assembly, on the provisions in the memorandum of understanding described in Section 9 of this Act.

SECTION 11. AND BE IT FURTHER ENACTED, That Section(s) 4-208 and 4-208.1 of Article – Transportation of the Annotated Code of Maryland be repealed.”.

On page 4, in line 31, strike “2.” and substitute “12.”.