

HOUSE BILL 1463

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8lr0465

By: **Delegates Conway, Elmore, and Mathias**
Introduced and read first time: February 15, 2008
Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Natural Resources – Somers Cove Marina Commission**

3 FOR the purpose of establishing the Somers Cove Marina Commission; providing that
4 the Commission is a body politic and corporate and an instrumentality of the
5 State; providing that the commission is not subject to State procurement law
6 but is required to comply with the minority business enterprise requirements
7 for certain purposes; authorizing the Commission to take certain actions under
8 certain circumstances; providing for the membership and terms of members of
9 the Commission; prohibiting a member of the Commission from receiving
10 certain compensation; authorizing a member to receive certain reimbursement;
11 providing for the election of a chair, vice chair, and secretary–treasurer of the
12 Commission; prohibiting a secretary–treasurer who is not a member of the
13 Commission from voting on matters before the Commission; requiring the
14 Commission to meet at certain intervals; requiring written notice to be given to
15 each member of the Commission a certain period of time before each meeting;
16 establishing certain quorum and voting requirements; authorizing the Secretary
17 of Natural Resources to remove a member of the Commission upon a certain
18 vote of members; providing for the selection and evaluation of an Executive
19 Director; requiring the Executive Director to perform certain duties under
20 certain circumstances; providing that the Marina Manager is an employee of the
21 State who has certain responsibilities; authorizing the Executive Director to
22 execute certain leases, contracts, events, or concessions under certain
23 circumstances; providing that a lease entered into before the creation of the
24 Commission shall stay in effect; prohibiting the Executive Director from
25 executing certain leases or contracts under certain circumstances; authorizing
26 the Secretary of Natural Resources to approve certain matters; requiring the
27 Secretary to respond to a certain request within a certain period of time;
28 providing that certain staff are employees of the Commission; providing that the
29 Executive Director is an employee of the State and serves at the pleasure of the
30 Secretary; requiring the Commission to perform certain duties under certain
31 circumstances; authorizing the Commission to accept gifts, contributions, or

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 loans of money, supplies, goods, and services; authorizing the Commission to
 2 accept appropriations, allotments, and loans of money from certain sources;
 3 altering provisions relating to the administration of the Somers Cove
 4 Improvement Fund; providing that any money obtained by the Commission
 5 from Somers Cove Marina shall be credited to the Fund; providing that moneys
 6 in the Fund are not moneys of the State; providing that moneys of the Fund are
 7 subject to certain audits; providing that moneys pledged for use by the State for
 8 Somers Cove Marina before the creation of the Commission shall be used for a
 9 certain purpose; defining certain terms; requiring the Department and the
 10 Commission to begin conducting a certain evaluation on a certain date;
 11 requiring the Department and the Commission to report certain findings and
 12 recommendations on a certain date; providing that certain State employees may
 13 remain employed at Somers Cove as State employees under certain
 14 circumstances; requiring the Commission to reimburse the Department for
 15 certain salaries under certain circumstances; providing for a delayed effective
 16 date; and generally relating to Somers Cove Marina.

17 BY repealing and reenacting, with amendments,
 18 Article – Natural Resources
 19 Section 5–908.1
 20 Annotated Code of Maryland
 21 (2005 Replacement Volume and 2007 Supplement)

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

24 **Article – Natural Resources**

25 5–908.1.

26 (a) (1) In this section[,] **THE FOLLOWING WORDS HAVE THE MEANINGS**
 27 **INDICATED.**

28 (2) **“COMMISSION” MEANS THE SOMERS COVE MARINA**
 29 **COMMISSION.**

30 (3) **“Fund” means the Somers Cove Marina Improvement Fund.**

31 (4) **“UNENCUMBERED” MEANS NOT PLEDGED FOR USE BY THE**
 32 **STATE FOR SOMERS COVE MARINA BEFORE THE CREATION OF THE**
 33 **COMMISSION.**

34 (B) (1) (I) **THERE IS A SOMERS COVE MARINA COMMISSION.**

35 (II) **THE COMMISSION IS A BODY POLITIC AND CORPORATE**
 36 **AND AN INSTRUMENTALITY OF THE STATE.**

1 **(III) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION,**
2 **THE COMMISSION:**

3 **1. IS NOT SUBJECT TO STATE PROCUREMENT LAW;**
4 **AND**

5 **2. MAY CONSTRUCT DEVELOPMENTS AND PROJECTS**
6 **WITHOUT OBTAINING THE CONSENT OF ANY OTHER UNIT OF STATE**
7 **GOVERNMENT AND WITHOUT ANY PROCEEDING, THE SATISFACTION OF ANY**
8 **CONDITION, OR THE OCCURRENCE OF ANY EVENT.**

9 **(2) IN CARRYING OUT ITS DUTIES RELATING TO DEVELOPMENTS**
10 **AND PROJECTS, THE COMMISSION SHALL COMPLY WITH TITLE 14, SUBTITLE 3**
11 **OF THE STATE FINANCE AND PROCUREMENT ARTICLE (MINORITY BUSINESS**
12 **PARTICIPATION).**

13 **(3) THE COMMISSION CONSISTS OF THE FOLLOWING MEMBERS:**

14 **(I) TWO MEMBERS FROM SOMERSET COUNTY, APPOINTED**
15 **BY THE BOARD OF COUNTY COMMISSIONERS OF SOMERSET COUNTY, ONE OF**
16 **WHOM SHALL BE A MEMBER OF THE SOMERSET COUNTY BUSINESS COMMUNITY;**

17 **(II) TWO MEMBERS FROM THE CITY OF CRISFIELD,**
18 **APPOINTED BY THE MAYOR OF CRISFIELD, ONE OF WHOM SHALL BE A MEMBER**
19 **OF THE SOMERSET COUNTY BUSINESS COMMUNITY; AND**

20 **(III) THREE MEMBERS APPOINTED BY THE SECRETARY, ONE**
21 **OF WHOM SHALL BE A CURRENT SLIP HOLDER AT SOMERS COVE MARINA.**

22 **(4) (I) THE TERM OF A MEMBER IS 4 YEARS.**

23 **(II) A MEMBER MAY NOT SERVE MORE THAN 2**
24 **CONSECUTIVE TERMS.**

25 **(III) AT THE END OF A TERM, A MEMBER CONTINUES TO**
26 **SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.**

27 **(IV) A MEMBER WHO IS APPOINTED AFTER A TERM HAS**
28 **BEGUN SERVES ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS**
29 **APPOINTED AND QUALIFIES.**

1 **(5) A MEMBER IS NOT ENTITLED TO COMPENSATION EXCEPT FOR**
2 **REIMBURSEMENT FOR EXPENSES AS PROVIDED IN THE BUDGET OF THE**
3 **COMMISSION.**

4 **(6) (I) THE COMMISSION SHALL ELECT A CHAIR AND A VICE**
5 **CHAIR OF THE COMMISSION FROM AMONG ITS MEMBERS.**

6 **(II) THE COMMISSION SHALL ELECT A**
7 **SECRETARY-TREASURER WHO NEED NOT BE A MEMBER OF THE COMMISSION.**

8 **(III) A SECRETARY-TREASURER WHO IS NOT A MEMBER OF**
9 **THE COMMISSION MAY NOT VOTE ON MATTERS BEFORE THE COMMISSION.**

10 **(7) (I) THE COMMISSION SHALL MEET AT LEAST EVERY 2**
11 **MONTHS, AS DETERMINED BY THE CHAIR.**

12 **(II) AT LEAST 10 DAYS BEFORE EACH MEETING, WRITTEN**
13 **NOTICE SHALL BE GIVEN TO EACH MEMBER OF THE COMMISSION.**

14 **(8) FIVE MEMBERS OF THE COMMISSION ARE A QUORUM.**

15 **(9) A MAJORITY VOTE OF THE MEMBERS PRESENT AT A MEETING**
16 **HAVING A QUORUM IS NEEDED FOR THE COMMISSION TO ACT.**

17 **(10) (I) THE SECRETARY MAY REMOVE A MEMBER OF THE**
18 **COMMISSION FOR ANY REASON UPON A MAJORITY VOTE OF THE MEMBERS OF**
19 **THE COMMISSION.**

20 **(II) IF A MEMBER IS REMOVED, A NEW MEMBER SHALL**
21 **PROMPTLY BE APPOINTED BY THE INDIVIDUAL OR BODY THAT APPOINTED THE**
22 **REMOVED MEMBER.**

23 **(11) (I) THE SECRETARY SHALL:**

24 **1. NOMINATE AN EXECUTIVE DIRECTOR TO THE**
25 **COMMISSION FOR APPROVAL; AND**

26 **2. CONSULT WITH THE COMMISSION IN**
27 **CONDUCTING THE ANNUAL PERFORMANCE EVALUATION OF THE EXECUTIVE**
28 **DIRECTOR.**

29 **(II) THE EXECUTIVE DIRECTOR:**

30 **1. SHALL ADMINISTER THE FUND;**

1 **2. ON OR BEFORE MAY 1 OF EACH YEAR, AND AFTER**
2 **CONSULTING WITH THE COMMISSION, SHALL PREPARE OPERATING AND**
3 **CAPITAL BUDGETS FOR THE SUBSEQUENT FISCAL YEAR AND SUBMIT THE**
4 **BUDGETS TO THE COMMISSION FOR REVIEW AND APPROVAL;**

5 **3. SHALL SUPERVISE THE MARINA MANAGER, WHO**
6 **SHALL:**

7 **A. BE AN EMPLOYEE OF THE STATE; AND**

8 **B. WILL BE RESPONSIBLE FOR DAY-TO-DAY**
9 **OPERATIONS OF THE MARINA;**

10 **4. MUST BE FAMILIAR WITH AND FOLLOW**
11 **STANDARD PROCUREMENT PROCEDURES FOR STATE AGENCIES;**

12 **5. MAY EXECUTE LEASES, CONTRACTS, EVENTS, OR**
13 **CONCESSIONS FOR LAND, BUILDINGS, OR FACILITIES AT SOMERS COVE**
14 **MARINA, PROVIDED THAT:**

15 **A. A LEASE OR CONTRACT EXECUTED BY THE**
16 **EXECUTIVE DIRECTOR MAY NOT EXTEND LONGER THAN 5 YEARS AFTER THE**
17 **CREATION OF THE COMMISSION;**

18 **B. THE LEASE OR CONTRACT EXECUTED BY THE**
19 **EXECUTIVE DIRECTOR IS REVIEWED AND APPROVED BY THE COMMISSION,**
20 **WITH AN ATTORNEY GENERAL FOR THE DEPARTMENT AVAILABLE FOR**
21 **CONSULTATION; AND**

22 **C. A LEASE ENTERED INTO BEFORE THE CREATION**
23 **OF THE COMMISSION SHALL STAY IN EFFECT;**

24 **6. MAY NOT EXECUTE A LEASE OR CONTRACT FOR**
25 **IMPROVEMENTS AT THE MARINA FOR NONBOATING-RELATED SERVICES OR**
26 **GOODS WITHOUT THE APPROVAL OF THE SECRETARY, PROVIDED THAT THE**
27 **SECRETARY SHALL RESPOND TO A REQUEST FOR APPROVAL WITHIN 30 DAYS**
28 **AFTER RECEIPT;**

29 **7. SUBJECT TO THE APPROVAL OF THE SECRETARY,**
30 **AND IN COOPERATION WITH THE COMMISSION, SHALL DEVELOP AN ANNUAL**
31 **MASTER PLAN FOR THE OPERATIONS, MAINTENANCE, DEVELOPMENT, AND**
32 **IMPROVEMENT OF SOMERS COVE MARINA THAT IMPROVES SERVICES TO THE**
33 **GENERAL BOATING PUBLIC;**

1 **8. SHALL ADMINISTER, IN COOPERATION WITH THE**
2 **COMMISSION, ALL UNENCUMBERED GRANTS;**

3 **9. A. SHALL EMPLOY A STAFF TO OPERATE AND**
4 **MAINTAIN SOMERS COVE MARINA, AND SET THE STAFF'S COMPENSATION; AND**

5 **B. SHALL, EXCEPT FOR THE MARINA MANAGER,**
6 **EMPLOY STAFF AS EMPLOYEES OF THE COMMISSION; AND**

7 **10. BE AN EMPLOYEE OF THE STATE AND SERVE AT**
8 **THE PLEASURE OF THE SECRETARY.**

9 **(c) (1) THE COMMISSION SHALL:**

10 **(I) ADOPT AN OPERATING BUDGET TO USE THE FUND TO**
11 **IMPLEMENT THE MASTER PLAN;**

12 **(II) ADOPT A CAPITAL BUDGET THAT MAY USE FUNDS FROM**
13 **SOMERSET COUNTY, THE CITY OF CRISFIELD, THE STATE, AND OTHER**
14 **SOURCES TO IMPLEMENT THE MASTER PLAN;**

15 **(III) 1. APPLY FOR GRANTS FROM THE WATERWAY**
16 **IMPROVEMENT FUND IN ACCORDANCE WITH TITLE 8, SUBTITLE 7 OF THIS**
17 **ARTICLE; AND**

18 **2. SUBJECT TO THE SECRETARY'S APPROVAL,**
19 **RECEIVE APPROVED GRANT AMOUNTS AT THE TIME OF ACCEPTANCE OF A BID**
20 **OR BIDS FOR WATERWAY IMPROVEMENT WORK;**

21 **(IV) ASSESS SLIP AND OTHER FEES AND CHARGES AT**
22 **SOMERS COVE MARINA AS NECESSARY IN ORDER TO IMPLEMENT THE MASTER**
23 **PLAN;**

24 **(V) SET POLICY AND PROVIDE GENERAL OVERSIGHT OF**
25 **MARINA OPERATIONS; AND**

26 **(VI) ADOPT RULES AND REGULATION NECESSARY FOR THE**
27 **CONDUCT OF ITS OWN AFFAIRS.**

28 **(2) THE COMMISSION MAY:**

1 **(I) ACCEPT GIFTS, CONTRIBUTIONS, OR LOANS OF MONEY,**
2 **SUPPLIES, GOODS, AND SERVICES, AND ACCEPT APPROPRIATIONS,**
3 **ALLOTMENTS, AND LOANS OF MONEY FROM:**

- 4 **1. THE STATE OR FEDERAL GOVERNMENT;**
5 **2. A FEDERAL CORPORATION;**
6 **3. A UNIT OR INSTRUMENTALITY OF THE FEDERAL**
7 **GOVERNMENT; OR**
8 **4. A POLITICAL SUBDIVISION OR INSTRUMENTALITY**
9 **OF THE STATE;**

10 **(II) EXERCISE A POWER USUALLY POSSESSED BY A PRIVATE**
11 **CORPORATION IN PERFORMING SIMILAR FUNCTIONS UNLESS TO DO SO WOULD**
12 **CONFLICT WITH STATE LAW; AND**

13 **(III) DO ALL THINGS NECESSARY OR CONVENIENT TO CARRY**
14 **OUT THE MANDATES AND POWERS EXPRESSLY PROVIDED BY THIS SECTION.**

15 **[(b)] (D)** There is a Somers Cove Marina Improvement Fund in the
16 **[Department] COMMISSION**, to be used for the operation, maintenance, development,
17 and improvement of the Somers Cove Marina facilities in Crisfield, Maryland.

18 **[(c)] (E)** Any money obtained by the **[Department] COMMISSION** from
19 Somers Cove Marina shall be credited to the Fund.

20 **[(d) (1)]** The Fund is a special, nonlapsing fund that is not subject to §
21 7-302 of the State Finance and Procurement Article.

22 **(2)** Any investment earnings of the Fund may not be transferred or
23 revert to the General Fund of the State, but shall remain in the Fund.

24 **(3)** Moneys in the Fund may be used for administrative costs
25 calculated in accordance with § 1-103(b)(2) of this article.]

26 **(F) (1) THE COMMISSION SHALL:**

27 **(I) MAINTAIN THE FUND IN A BANK ACCOUNT SEPARATE**
28 **FROM STATE FUNDS;**

29 **(II) TRANSFER ANY UNENCUMBERED MONEYS IN THE FUND**
30 **RUN BY THE DEPARTMENT TO THE COMMISSION'S FUND; AND**

1 (III) REIMBURSE THE STATE FOR THE SALARY OF THE
2 MARINA MANAGER.

3 (2) MONEYS OF THE FUND ARE:

4 (I) NOT MONEYS OF THE STATE WITHIN THE MEANING OF
5 ARTICLE VI OF THE STATE CONSTITUTION; AND

6 (II) SUBJECT TO AUDIT BY THE STATE, INCLUDING THE
7 DEPARTMENT AND THE LEGISLATIVE AUDITOR.

8 (3) MONEYS PLEDGED FOR USE BY THE STATE FOR SOMERS
9 COVE MARINA BEFORE THE CREATION OF THE COMMISSION SHALL BE USED
10 FOR THE SAME PURPOSE AS ORIGINALLY PLEDGED.

11 (G) ON OR BEFORE OCTOBER 1 OF EACH YEAR, THE COMMISSION
12 SHALL PROVIDE TO THE DEPARTMENT AN ACCOUNTING OF REVENUES AND
13 EXPENSES FROM SOMERS COVE MARINA FOR THE PREVIOUS FISCAL YEAR.

14 (H) (1) ON NOVEMBER 1, 2011, THE DEPARTMENT AND THE
15 COMMISSION SHALL BEGIN TO EVALUATE THE COMMISSION'S WORK SO THAT
16 THE DEPARTMENT AND THE COMMISSION MAY MAKE FINDINGS AND
17 RECOMMENDATIONS CONCERNING THE COMMISSION'S ABILITY TO:

18 (I) OPERATE, MAINTAIN, DEVELOP, AND IMPROVE SOMERS
19 COVE MARINA IN AN EFFECTIVE MANNER; AND

20 (II) AFFORD AND ASSUME THE COSTS OF OPERATING,
21 MAINTAINING, DEVELOPING, AND IMPROVING SOMERS COVE MARINA,
22 INCLUDING THE SALARIES OF:

23 1. THE EXECUTIVE DIRECTOR; AND

24 2. EMPLOYEES OF THE STATE WHO REMAIN
25 WORKING AT SOMERS COVE MARINA.

26 (2) ON NOVEMBER 1, 2013, BASED ON THE EVALUATION
27 UNDERTAKEN IN ACCORDANCE WITH PARAGRAPH (1) OF THIS SUBSECTION, THE
28 DEPARTMENT AND THE COMMISSION SHALL REPORT THEIR FINDINGS AND
29 RECOMMENDATIONS, IN ACCORDANCE WITH § 2-1246 OF THE STATE
30 GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY.

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

1 (a) The terms of the initial members of the Somers Cove Commission shall
2 begin on January 1, 2009, and shall expire as follows:

3 (1) of the two members appointed by the Board of County
4 Commissioners of Somerset County, one member on December 31, 2010, and one
5 member on December 31, 2012;

6 (2) of the two members appointed by the Mayor of Crisfield, one
7 member on December 31, 2010, and one member on December 31, 2012; and

8 (3) of the three members appointed by the Secretary, one member in
9 2010, one member in 2011, and one member in 2012.

10 (b) (1) A State employee in an appointed or full-time equivalent position
11 who is employed at Somers Cove Marina on June 1, 2008, may remain employed as a
12 State employee at the Marina subject to the authority of the Secretary under Title 1,
13 Subtitle 1 of the Natural Resources Article and the provisions of the State Personnel
14 Management System.

15 (2) If the Department and the Commission determine that the
16 Commission is financially able, the Somers Cove Marina Commission shall reimburse
17 the Department of Natural Resources for the salary of the Executive Director and any
18 other State employee at the Marina.

19 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
20 November 1, 2008.