

# SENATE BILL 775

F5, F1, P1

11r1238

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By: **Senator Conway**

Introduced and read first time: February 4, 2011

Assigned to: Finance and Education, Health, and Environmental Affairs

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## A BILL ENTITLED

1 AN ACT concerning

2 **Department of Labor, Licensing, and Regulation – Adult Education and**  
3 **Literacy Services – Transfer to Maryland State Department of Education**

4 FOR the purpose of transferring adult education and literacy services functions  
5 administered by the Department of Labor, Licensing, and Regulation to the  
6 State Department of Education; designating the State Board of Education the  
7 sole agency in the State responsible for administering and supervising policy  
8 and funding for adult education and literacy; requiring the State Department of  
9 Education to be responsible for the development of a certain State plan and  
10 submission of the plan to the federal Department of Education; altering the  
11 duties of a certain division within the Department of Labor, Licensing, and  
12 Regulation; requiring that responsibility for certain services and grants in the  
13 State transfer to the State Department of Education by a certain date; requiring  
14 that certain funds be included in a certain budget for a certain fiscal year;  
15 providing for the transfer of certain employees under certain circumstances;  
16 authorizing the Governor to transfer certain appropriations; authorizing certain  
17 grants and funding contracts to continue for a certain time period under certain  
18 circumstances; requiring the departments to consult over certain grants and  
19 contracts; providing certain provisions to effectuate the transfer of the functions  
20 and units required by this Act; making the provisions of this Act severable; and  
21 generally relating to the transfer of certain functions of State government and  
22 the administration of adult education and literacy services.

23 BY transferring

24 Article – Labor and Employment

25 Section 11–801(b), 11–804, 11–805, 11–806, 11–807, and 11–808, respectively

26 Annotated Code of Maryland

27 (2008 Replacement Volume and 2010 Supplement)

28 to be

29 Article – Education

30 Section 2–205(r)(1) and (2), 4–110, 5–218, 7–205.1, and 7–206, respectively

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Annotated Code of Maryland  
2 (2008 Replacement Volume and 2010 Supplement)

3 BY repealing and reenacting, with amendments,  
4 Article – Education  
5 Section 2–205(r), 4–110, 5–218, 7–205.1, and 7–206  
6 Annotated Code of Maryland  
7 (2008 Replacement Volume and 2010 Supplement)  
8 (As enacted by Section 1 of this Act)

9 BY repealing and reenacting, with amendments,  
10 Article – Labor and Employment  
11 Section 11–102 and 11–103  
12 Annotated Code of Maryland  
13 (2008 Replacement Volume and 2010 Supplement)

14 BY repealing and reenacting, with amendments,  
15 Article – Labor and Employment  
16 Section 11–801  
17 Annotated Code of Maryland  
18 (2008 Replacement Volume and 2010 Supplement)  
19 (As enacted by Section 1 of this Act)

20 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
21 MARYLAND, That Section(s) 11–801(b), 11–804, 11–805, 11–806, 11–807, and  
22 11–808, respectively, of Article – Labor and Employment of the Annotated Code of  
23 Maryland be transferred to be Section(s) 2–205(r)(1) and (2), 4–110, 5–218, 7–205.1,  
24 and 7–206, respectively, of Article – Education of the Annotated Code of Maryland.

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

27 **Article – Education**

28 2–205.

29 (r) (1) The [Adult Education and Literacy Services Office] **STATE**  
30 **BOARD** shall be the sole agency in the State responsible for administering and  
31 supervising policy and funding for adult education and literacy.

32 (2) The [Department] **STATE BOARD** shall be responsible for the  
33 development of the State plan for adult education and literacy services and its  
34 submission to the federal Department of Education.

35 4–110.

1 (a) In accordance with the applicable rules and regulations of the  
2 [Department] **STATE BOARD**, each county board of education may establish and  
3 maintain day and evening schools for adults.

4 (b) The purpose of these schools for adults is to provide[:

5 (1) a general program of continuing education for the improvement of  
6 the civic, occupational, and general intelligence of adults; and

7 (2) programs to enable adults to make a wise use of their leisure time]  
8 **ADULT EDUCATION AND LITERACY SERVICES.**

9 (c) A full-time student, at the student's own expense, may register for adult  
10 education courses, if space is available, and if that student secures the written  
11 permission of the superintendent of schools, or the superintendent's designee, of the  
12 county in which the student registers.

13 5-218.

14 (a) (1) The [Adult Education and Literacy Services Office] **DEPARTMENT**  
15 shall distribute competitive grants for adult education and literacy services in  
16 accordance with the State plan for adult education and family literacy.

17 (2) The grants distributed under this section shall be based on need  
18 and performance.

19 (3) Grants under this section may be used for adult education and  
20 literacy services, including:

21 (i) GED instruction;

22 (ii) [the] **THE** Maryland Adult External High School Program  
23 under § [11-807] **7-205.1** of this [subtitle] **ARTICLE**;

24 (iii) Workplace Literacy Services;

25 (iv) English for speakers of other languages;

26 (v) [family] **FAMILY** literacy; and

27 (vi) **BASIC SKILLS AND** literacy instruction.

28 (b) Funding for the competitive grants under this section shall be as  
29 provided in the State budget.

30 (c) On or before August 1 each year, the Department shall:

1           (1)    [compile] **COMPILE** a list by county of adult education and literacy  
2 services offered to the public;

3           (2)    [distribute] **DISTRIBUTE** the list to the county board and county  
4 superintendent or chief executive officer of each local school system in the State; and

5           (3)    [post] **POST** the list on its public website.

6 7–205.1.

7           (a)    In this section, “Program” means the Maryland Adult External High  
8 School Program established for the citizens of Maryland under regulations adopted by  
9 [the Secretary in consultation with] the State Board [of Education].

10          (b)    (1)   The Department and the State Board [of Education] recognize  
11 demonstrated competencies in adults, whether or not those competencies were  
12 acquired in a formal school setting.

13          (2)    In response to its recognition of competencies, the Department  
14 shall provide alternative requirements and methods of obtaining a Maryland high  
15 school diploma.

16          (3)    The State Board [of Education] shall award diplomas to the  
17 individuals meeting the requirements of this subtitle.

18          (c)    (1)   For each fiscal year the Governor shall include in the annual  
19 budget bill submitted to the General Assembly, including any proposed supplemental  
20 budget, a General Fund appropriation for the Maryland Adult External High School  
21 Program in an amount not less than the amount of the Governor’s General Fund  
22 appropriation for the Program in fiscal year 2006.

23          (2)    In each annual budget, the Governor shall include federal funds, to  
24 the extent available, for the Program in an amount not less than the amount of the  
25 Governor’s federal fund appropriation for the Program in fiscal year 2006.

26 7–206.

27          (a)    An individual may obtain a high school diploma by examination as  
28 provided in this section if the individual:

29           (1)    [has] **HAS** not obtained a high school diploma;

30           (2)    [has] **HAS** resided in this State or on a federal reservation in this  
31 State for at least 3 months, provided that the [Secretary] **STATE BOARD** may waive  
32 the residence requirement if the [Secretary] **BOARD** considers the waiver justified;

1 (3) [is] **IS** 16 years old or older; and

2 (4) [has] **HAS** withdrawn from a regular full-time public or private  
3 school program.

4 (b) The [Department] **STATE BOARD** shall offer examinations to individuals  
5 who are pursuing a high school diploma under this [subtitle] **SECTION** at least twice  
6 each year at places throughout the State that are reasonably convenient for the  
7 applicants.

8 (c) The examination shall:

9 (1) [be] **BE** offered in appropriate high school subject areas; and

10 (2) [be] **BE** of a comprehensive nature as determined by the State  
11 Board [of Education].

12 (d) An individual who fails an examination may repeat taking the  
13 examination.

14 (e) A member of the armed forces may earn a Maryland high school diploma  
15 by taking the examinations furnished by the United States Armed Forces Institute  
16 and given by the appropriate service officer.

17 (f) The diploma shall be awarded in accordance with the regulations adopted  
18 by the [Secretary and the] State Board [of Education].

## 19 **Article – Labor and Employment**

20 11-102.

21 (a) There is a Division of Workforce Development and Adult Learning within  
22 the Department of Labor, Licensing, and Regulation.

23 (b) The Division has the powers, duties, responsibilities, and functions  
24 provided in the laws of this State.

25 (c) The Division has the general purpose of advancing the economic welfare  
26 of the people by coordinating the State's public and private resources for [adult  
27 learning,] employment, [and] job training, **AND ADULT LEARNING IN THE**  
28 **CORRECTIONAL INSTITUTIONS IN THE DIVISION OF CORRECTION.**

29 11-103.

30 (a) The Division shall:

- 1 (1) promote apprenticeship and training programs;
- 2 (2) administer job training, placement, and service programs;
- 3 (3) implement the provisions of the Workforce Investment Act;
- 4 (4) [administer adult education and literacy services programs;
- 5 (5)] conduct educational and job skills training programs in adult  
6 correctional facilities;
- 7 [(6)] (5) oversee any other units established pursuant to State or  
8 federal employment, training, or manpower statutes; and
- 9 [(7)] (6) administer those programs assigned to the Division by law  
10 or designated by the Secretary.

11 (b) The Division shall meet and confer on a regular basis with  
12 representatives of the **STATE DEPARTMENT OF EDUCATION, APPOINTED BY THE**  
13 **STATE SUPERINTENDENT OF SCHOOLS, THE** State's community colleges, appointed  
14 by the Maryland Association of Community Colleges, and the adult education  
15 community, appointed by the Maryland Association for Adult Continuing and  
16 Community Education, to assure that [adult education and literacy services and] job  
17 training activities and resources are effectively coordinated **WITH ADULT EDUCATION**  
18 **AND LITERACY SERVICES.**

19 11-801.

20 [(a)] There is an Adult Education and Literacy Services Office in the Division  
21 of Workforce Development and Adult Learning of the Department.

22 SECTION 3. AND BE IT FURTHER ENACTED, That the State Department of  
23 Education is the successor of the Department of Labor, Licensing, and Regulation, as  
24 provided in this Act, and the State Board of Education and the State Superintendent  
25 of Schools are the successors of the Secretary of Labor, Licensing, and Regulation, as  
26 provided in this Act. In every law, executive order, rule, regulation, policy, or  
27 document created by an official, employee, or unit of this State, the names and titles of  
28 those agencies and officials mean the names and titles of the successor agencies and  
29 officials, as provided in this Act.

30 SECTION 4. AND BE IT FURTHER ENACTED, That:

31 (a) The responsibility for the provision of adult education and literacy  
32 services in the State shall be transferred to the State Department of Education on July  
33 1, 2012.

1 (b) (1) Funding for the services and programs transferred to the  
2 Department under subsection (a) of this section shall be included in the fiscal year  
3 2013 budget of the Department.

4 (2) Federal fund grants directed to the State through other State  
5 agencies shall be transferred to the Department on July 1, 2012.

6 SECTION 5. AND BE IT FURTHER ENACTED, That all employees in the  
7 Adult Education and Literacy Services Office in the Division of Workforce  
8 Development and Adult Learning of the Department of Labor, Licensing, and  
9 Regulation, whose positions are transferred to the State Department of Education by  
10 this Act, shall have their positions and position identification numbers transferred to  
11 the State Department of Education on July 1, 2012, without any diminution of their  
12 rights, benefits, or employment or retirement status.

13 SECTION 6. AND BE IT FURTHER ENACTED, That the Governor may  
14 transfer any related administrative functions and employees of the Department of  
15 Labor, Licensing, and Regulation to the State Department of Education as necessary  
16 to carry out the provisions of this Act.

17 SECTION 7. AND BE IT FURTHER ENACTED, That, in accordance with §  
18 7-209(e)(2)(iv) of the State Finance and Procurement Article, the Governor is  
19 authorized to transfer appropriations, including general funds, special funds, and  
20 federal funds, from the Department of Labor, Licensing, and Regulation to the State  
21 Department of Education as necessary to carry out the provisions of this Act.

22 SECTION 8. AND BE IT FURTHER ENACTED, That, subject to the  
23 availability of State or federal funds, the consent of the grantees or contractors, and  
24 satisfactory performance of services, all adult education and family literacy grants and  
25 funding contracts, within the scope of Section 2 of this Act and awarded prior to the  
26 effective date of this Act, shall be continued, without the need for rebidding, through  
27 fiscal year 2012 and fiscal year 2013.

28 SECTION 9. AND BE IT FURTHER ENACTED, That any new grants or  
29 funding contracts awarded between July 1, 2011 and June 30, 2012 for adult education  
30 and family literacy, within the scope of Section 2 of this Act, shall be awarded only  
31 after consultation between the State Department of Education and the Department of  
32 Labor, Licensing, and Regulation.

33 SECTION 10. AND BE IT FURTHER ENACTED, That, except as expressly  
34 provided to the contrary in this Act, any transaction affected by or flowing from any  
35 statute here amended, repealed, or transferred, and validly entered into before the  
36 effective date of this Act and every right, duty, or interest flowing from it remains  
37 valid after the effective date of this Act and may be terminated, completed,  
38 consummated, or enforced pursuant to law.

39 SECTION 11. AND BE IT FURTHER ENACTED, That except as otherwise  
40 provided in this Act, all rules and regulations, proposed rules and regulations,

1 standards and guidelines, forms, plans, memberships, special funds, appropriations,  
2 grants, applications for grants, contracts, property, administrative and judicial  
3 proceedings, rights to sue and be sued, and all other duties and responsibilities  
4 associated with those functions transferred by this Act shall continue in effect under  
5 the State Superintendent of Schools and the State Board of Education, or the  
6 appropriate unit within the State Department of Education, until completed,  
7 withdrawn, cancelled, modified, or otherwise changed pursuant to law.

8         SECTION 12. AND BE IT FURTHER ENACTED, That if any provision of this  
9 Act or the application thereof to any person or circumstance is held invalid for any  
10 reason in a court of competent jurisdiction, the invalidity does not affect other  
11 provisions or any other application of this Act which can be given effect without the  
12 invalid provision or application, and for this purpose the provisions of this Act are  
13 declared severable.

14         SECTION 13. AND BE IT FURTHER ENACTED, That this Act shall take  
15 effect July 1, 2011.