

# The Legislative Wrap-Up

Library and Information Services, Department of Legislative Services

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Issue 11-1

January 14, 2011

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*(Click on Issue above for previous Wrap-Ups)*

## OPENING WEEK

The 428th session of the General Assembly of Maryland convened at noon on Wednesday, January 12, marking the first year of the four-year 2011-2014 legislative term. *Sine die* for this year is scheduled for April 12, ninety calendar days following January 12. Opening day was filled with ceremony and symbolism as each chamber commenced with the organization of its body. Surrounded by a larger than usual crowd of friends and family, the 10 new Senators, 8 of whom were former members of the House and 30 new Delegates, some of whom had served during earlier terms, joined their colleagues as all 188 legislators were sworn-in to officially begin their service to the people of Maryland.

In opening day activities, Thomas V. Mike Miller, Jr. (D-District 27) was elected to his 25th year as President of the Maryland Senate. He is the longest-serving Senate President in the history of the State and the longest-serving presiding officer of any Senate chamber in the United States. The Senate President Pro Tem, Nathaniel J. McFadden, is beginning his fifth year of service in this position. Other Senate floor leaders include Majority Leader Rob Garagiola and Deputy Majority Leader Catherine E. Pugh. Senator Allan Kittleman is the Senate Minority Leader and Senator David Brinkley serves as Minority Whip.

The House of Delegates elected Michael E. Busch (D-District 30) for a ninth year as Speaker. Speaker Pro Tem Adrienne A. Jones will also be serving for a ninth year. She was joined by Majority Leader Kumar P. Barve and Majority Whip Talmadge Branch, two other members of the House majority leadership team. Delegate Anthony J. O'Donnell is the Minority Leader and Delegate Jeannie Haddaway-Riccio serves as Minority Whip.

Legislative activity was light during this first week of session as committee assignments were made official, and new and returning members alike opened their Annapolis offices and prepared for the committee and floor work ahead.

## MAJOR ISSUES

Budget issues are expected to dominate the legislative landscape during the 2011 session. A projected deficit of \$1.6 billion must be closed in order to balance expected revenues with expenditures. The Governor's budget for fiscal 2012, which begins July 1, 2011, will be introduced on January 21 (Friday), the 10<sup>th</sup> day of the session, as required by the Maryland Constitution. The General Assembly will then begin consideration of the budget, with the House of Delegates taking the lead this year.

Among the other many issues that are expected to gain a lot of attention during the session are:

- civil unions and same sex marriages;
- federal health care reform implementation;
- in-state college tuition for immigrants;
- renewable energy requirements for utility companies;
- slots expansion;
- alcohol and gas tax increases, and
- pension reform.

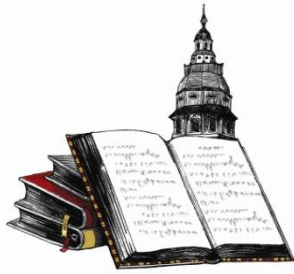
Other legislation will be introduced to address pollutants and runoff in the Chesapeake Bay, changing Maryland's campaign finance laws, as well as strong drunk driving restrictions, and shipping wine to Maryland by mail.

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## NEXT WEEK AND UPCOMING EVENTS

Bill introductions, floor sessions, and committee briefings and hearings will continue in Annapolis as the 2011 General Assembly session gets underway.

The inauguration of Governor Martin O'Malley and Lt. Governor Anthony Brown will begin on Wednesday, January 19, at noon in the Senate chamber with ceremonies to continue on Lawyer's Mall. The Governor's State of the State address will take place on February 3 at noon in the House chamber.



# The Legislative Wrap-Up

Library and Information Services, Department of Legislative Services

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Issue 11-2

January 17-21, 2011

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*(Click on Issue above for previous Wrap-Ups)*

## BILL INTRODUCTIONS

The 2011 session bill counts have reached 122 in the Senate and 91 in the House and may be expected to reach the 2,500 mark as upcoming deadlines approach:

- **Bill Request Guarantee Date (January 25)** requires legislators to request that bills be drafted in order to guarantee preparation for the bill introduction deadlines;
- **Senate Bill Introduction Date (February 4)** requires, under Senate Rule 32(b), that Senate bills introduced after this date be referred to the Senate Rules Committee. However, the Senate hopper remains open so that all bills should be given to the Secretary of the Senate's office by 5:00 p.m. on Monday, February 7; and
- **House Bill Introduction Date (February 11)** requires, under House Rule 32(b), that House bills introduced after this date be referred to the House Rules and Executive Nominations Committee. All bills must be given to the Chief Clerk of the House by 5:00 P.M. on Thursday, February 10.

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## GUBERNATORIAL INAUGURATION

On Wednesday, January 19, in the chamber of the Senate of Maryland, Chief Judge Robert M. Bell of the Maryland Court of Appeals administered the gubernatorial oath of office to Martin O'Malley, who began his second term as Maryland's Governor. Anthony G. Brown, Lt. Governor of Maryland, was also sworn in for a second term by Chief Judge Bell. The Governor and Lt. Governor then made their way to the west portico of the State House where they repeated their oaths with Judge Bell before a welcoming crowd of Marylanders. Governor O'Malley then delivered his inaugural address. He stated:

...our State and nation are at a crossroads. As we turn into this new economy, there will be some states that lose and some states that win. Our mission in these next four years and beyond is to make our children winners in the new economy. And so our work continues: to create and save jobs

through innovation, and to improve public safety, public education and our quality of life. With tough choices and unity of purpose we move forward together."

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## INTRODUCTION OF BUDGET BILLS

As required by the Maryland Constitution, Governor O'Malley's Budget Bill ([SB 85/HB 70](#)) for fiscal 2012 was introduced on the 10<sup>th</sup> day of session, Friday, January 21. In years other than the first year of a term, the Budget Bill must be introduced on the third Wednesday in January, but in the first year of a term the Constitution permits the bill to be introduced no later than the 10<sup>th</sup> day of the session.

The Constitution requires that the budget be balanced and that the General Assembly pass the Budget Bill by the 83<sup>rd</sup> day, which is April 4 this year, or the Governor must proclaim an extended session if the Budget Bill does not pass by the 90<sup>th</sup> day. During the extended portion of the session the General Assembly may deal only with the Budget Bill and with the cost of the extended session. Only in 1992 did the General Assembly not pass the bill by the 90<sup>th</sup> day requiring an extended session.

The General Assembly may reduce the Governor's proposed amounts for the Executive Branch but may not increase them. In odd numbered years, i.e. 2011, the House of Delegates moves its Budget Bill to the floor first. Therefore, [HB 70](#) will be the measure that ultimately passes. In 2012, the Senate will handle the Budget Bill first.

On Friday, January 21, Governor O'Malley also submitted the Maryland Consolidated Capital Bond Bill of 2007 ([SB 86/HB 71](#)), which finances the majority of the State's capital programs.

Budget briefings by the Director, Office of Policy Analysis, Department of Legislative Services will begin next week in both the House Appropriations Committee and in the Senate Budget and Taxation Committee. Other principal standing committees also will receive fiscal briefings from the Director in the coming weeks.

## COMMITTEE BRIEFINGS

Committees have been very busy this week with briefings on a number of subjects aimed at preparing members for the complicated issues they will face this session. Among next week's numerous presentations will be briefings on alcoholic beverage laws and issues, Maryland's voting system, ethic laws, procurement law with a focus on the Minority Business Enterprise (MBE) Program, and problems and concerns about the health of the Chesapeake Bay.

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## CRIMES, CORRECTIONS, AND PUBLIC SAFETY

Each law enforcement agency in the State is required to collect specified data on all traffic stops and to adopt a policy against race-based traffic stops under legislation ([SB 14](#)) that reinstates a previous law that expired in 2010. The bill, which had a Senate committee hearing this week, also reestablishes a reporting program for the collection and analysis of the traffic stop data.

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## TRANSPORTATION

### *Driver Licensing*

[SB 2](#), introduced on January 14 and heard in committee on January 20, recognizes Medal of Honor recipients by eliminating the fees they must pay to renew a motor vehicle registration or a non-commercial driver's license.

### *Pedestrian Safety*

[SB 12](#), also heard in committee on January 20, reconstitutes the Maryland Quiet Vehicles and Pedestrian Safety Task Force. The Task Force is required to study the minimum safe sound level to be required for new vehicles in order to enhance the safety of pedestrians, including those who are blind. The Task Force report is due June 30, 2013.

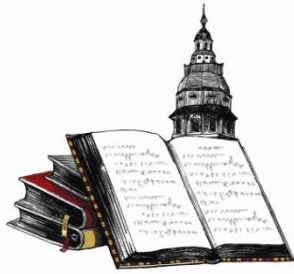
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## MINORITY LEADERSHIP

On Friday, January 21, the Senate Republican Caucus selected new minority leadership. Senator Nancy Jacobs is now the Minority Leader, and Senator E. J. Pipkin is the Minority Whip. Senator Allan Kittleman was the former Minority Leader, and Senator David Brinkley was the former Minority Whip.

## STATE-OF-THE-STATE ADDRESS

Governor O'Malley is slated to address the General Assembly in joint session in the House chamber on Thursday, February 3, at noon.



# The Legislative Wrap-Up

Library and Information Services, Department of Legislative Services

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Issue 11-3

January 24-28, 2011

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## BILL INTRODUCTIONS

To date 261 Senate bills and 235 House bills have been introduced or, in legislative lingo, “dropped in the hopper.” Many more bills are expected before the 90-day session reaches the Senate Introduction Date (February 4) and the House Introduction Date (February 11).

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## ADMINISTRATION LEGISLATION

This week Governor O’Malley submitted his proposed 2011 legislative agenda. Because only a member may introduce a bill, the Governor’s proposals are sponsored, by the President on the Senate side and designated as “By Request – Administration” and, on the House side, by the Speaker and designated as “By Request – Administration.” Additional sponsors, if any, are then listed. Collectively, the Governor’s bills are referred to as Administration legislation and include the operating budget bill ([SB 85/HB 70](#)) and the capital budget bond bill ([SB 86/HB 71](#)). Administration bills are introduced in both the Senate and House and therefore are “cross-filed” with identical language.

Several Administration proposals address Maryland’s criminal law:

- [SB 174/HB 161](#) expands the penalties for the use of a firearm in the commission of a crime of violence or felony to ensure that serious felons and violent criminals face the same criminal penalty, no matter the type of firearm they use to commit their crime;
- [SB 173/HB 172](#) reduces the good time/diminution credits for serious gun offenders to ensure that the sentences they receive are commensurate with the crime they committed; and
- [SB 178/HB 162](#) make it a crime to intentionally fail to provide necessary assistance and resources for a minor, including food, clothing, medical care, and supervision unless a lack of financial resources is the sole cause for the failure. Maryland is the only state without a statute criminalizing child neglect.

Other proposals promote the State’s economy. The Invest Maryland Program ([SB 180/HB 173](#)) is a tax credit program designed to spur venture capital

investment in Maryland businesses. Other bills ([SB 176/HB 167](#) and [SB 179/HB 164](#)) support the use of electric vehicles in the State and establish a State income tax credit of 20% of the cost of electric vehicle recharging equipment to encourage individuals and companies to investment in this technology ([SB 177/HB 163](#)).

The Administration’s package also contains legislation that relates to health care and the implementation of the federal Affordable Care Act in Maryland. One bill ([SB 183/HB 170](#)) will align Maryland law with the consumer protections in the federal act. For example, in addition to making pre-existing condition exclusions illegal, the new rules will help Marylanders who have insurance by barring lifetime limits on their benefits and reducing their risk of losing that insurance when they become sick. Another bill ([SB 182/HB 166](#)) establishes a structure and framework to develop the required insurance exchanges.

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## COURTS AND CIVIL PROCEEDINGS

[SB 50](#) makes a victim of domestic violence eligible to receive an award from the Criminal Injuries Compensation Fund for the reasonable costs of up to 14 days of temporary lodging if the victim is eligible for an award from the fund as the result of an injury from the domestic violence incident and sought temporary lodging to avoid further injury. The measure, which did not receive a House committee vote last year after passing in the Senate, had a hearing in a Senate committee this week.

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## CRIMES, CORRECTIONS, AND PUBLIC SAFETY

A license to carry a regulated firearm, including a concealed regulated firearm, issued to an individual by Delaware, Pennsylvania, or Virginia is valid in Maryland under [HB 9](#), heard in a House committee on Tuesday. Virginia currently issues nonresident gun carry permits that are available to eligible Maryland residents.

## FISCAL MATTERS

### *Operating Budget Bill*

As submitted by the Governor, the FY 2012 proposed operating budget ([SB 85/HB 70](#)) totals \$34.2 billion, a 3.1% increase from the fiscal 2011 budget as enacted, leaving an estimated \$120 million surplus. There is a proposed \$1 billion increase in spending, of which \$828.4 million is an increase in Medicaid expenditures.

The Budget Bill meets the Spending Affordability Committee recommendation that the structural deficit be reduced by one-third in the fiscal 2012 budget. With a reduction of \$680 million, the proposed budget exceeds the recommended reduction of \$650 million.

State employee positions in the Executive Branch decrease by 322 positions in fiscal 2012, although the number of positions in higher education increases by 330, for a net gain of eight positions. There are sufficient funds in the proposed budget to eliminate State employee furloughs and to change the service reduction days to paid administrative leave. There is also \$55.5 million to provide a \$750 bonus to State employees during fiscal 2012.

The Budget Bill has a reduction of \$101 million contingent upon a restructuring of the pension system for State employees, which is contained in [SB 87/HB 72](#), the Budget Reconciliation and Financing Act of 2011 (BRFA). Other budget reductions addressed in the BRFA affecting State employees and retirees include higher prescription co-pays and higher out-of-pocket expenses for a savings of \$10 million and a separate prescription plan for retirees, for a savings of \$35.4 million.

The proposed budget assumes no new taxes but is balanced with more than \$440 million in reductions and reversions that are contingent upon legislation and \$212 million in transfers from other funds to the General Fund, including a \$100 million transfer from the Transportation Trust Fund, a transfer of \$90 million from the Bay Restoration Fund, and new fees and reimbursements. Among the reductions are altering the local education aid and the library aid formula for reductions of \$93.7 million and \$4 million, respectively, and the phasing out of the Distinguished Scholarship Program. There is a rededication of \$94.5 million in transfer tax revenues to the General Fund.

Among the fees are an increase in the hospital assessments for Medicaid, raising \$201 million, and a “bad driver” fee, raising \$5 million. Additionally, the counties and Baltimore City will reimburse the State for 90% of the cost of administering property assessments raising \$34.8 million.

The federal Recovery Act funds in the proposed budget are \$4.5 million, down from \$1.2 billion in the fiscal 2011 budget. Highlights in the proposed budget include:

- State aid for elementary and secondary education totals \$5.7 billion, including \$4.9 billion in direct aid to the local boards of education and \$849 million in State pension costs for teachers;
- Nonpublic school textbook aid is \$4.4 million;
- Medicaid expenditures increase from \$5.9 billion to \$6.9 billion of which \$225 million is contingent upon an increase in hospital assessments;
- State universities and colleges receive \$4.9 billion, a \$118.6 million increase, including \$9 million in funds to limit in-state undergraduate tuition increases to 3%;
- The Chesapeake Bay Trust Fund receives \$25 million, a 25% increase over fiscal 2011, while the cover crop program receives \$16.2 million; and
- The Maryland Stem Cell Research Fund receives \$12.4 million; and the Maryland Biotechnology Investment Tax Credit Reserve Fund is allowed \$8 million with an additional \$3.8 million for the Maryland Biotech Center.

### *Capital Budget Bill*

The Governor’s \$1.4 billion capital budget includes a net borrowing of \$925 million in general obligation bonds. The budget does not consist of one bill, but of \$935.6 billion in general obligation bond funds in the Maryland Consolidated Capital Bond Loan of 2011 ([SB 86/HB 71](#)), while the remainder consists of funds in the Budget Bill ([SB 86/HB 70](#)) and academic revenue bonds. These figures exclude most transportation projects. Among the highlights are:

- Public school construction receives \$262.4 million, including \$9.7 million in recycled funds, plus an additional \$15.9 million for the Qualified Zone Academy Bond Program;
- State universities and colleges receive \$124.3 million in general obligation bonds, including \$41.5 million for a new law school at the University of Baltimore, while community colleges get \$60.8 million;
- Program Open Space is scheduled to receive \$33 million in State and federal funds. Rural Legacy is allocated \$14.1 million in general obligation bonds. The Agricultural Land Preservation Program is scheduled to receive \$8.6 million and Community

Parks and Playgrounds is allocated \$2.5 million in general obligation bonds;

- The Community Health Facilities Grant Program, which provides capital funds for mental health, developmental disabilities, and substance abuse community centers, receives \$3.6 million in general obligation bonds;
- The Federally Qualified Health Centers Grant Program receives \$2 million in general obligation bonds; and
- The Budget Bill, and the capital budget bill provide funding or authorization in general funds, special funds, general obligation bonds, and revenue bonds for environmental projects including allocations for the Enhanced Nutrient Removal Program (\$326.8 million with \$146.8 million in general obligation bonds and \$180 million in revenue bonds), water quality programs (\$154.5 million in State and federal funds), and the Biological Nutrient Removal Program (\$30.9 million in general obligation bonds).

Under the Maryland Constitution a bond bill may not pass until the Budget Bill has passed. The General Assembly may increase the authorization for a project or add a project in a bond bill, as well as delete or reduce projects.

#### *Budget Reconciliation and Financing Act (BRFA)*

A balanced budget is contingent upon changing the allocation of revenue, reducing required expenditures, and transferring money from special funds to the General Fund, which is done in the Budget Reconciliation and Financing Act of 2011 (BRFA), [SB 87/HB 72](#). Among the changes in the BRFA are:

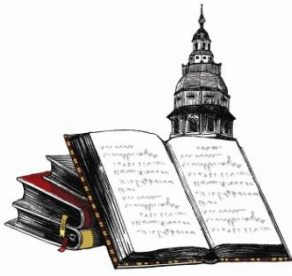
- increasing the monthly supervisory fee for parolees from \$25 to \$50;
- requiring the counties to reimburse the Department of Juvenile Services or the Department of Human Resources for the education of a nondisabled child under certain circumstances;
- requiring postsecondary educational institutions to pay an application fee to the Maryland Higher Education Commission for approval of an academic program;
- reducing the mandated State aid for elementary and secondary education;
- increasing the Medicaid hospital assessment;
- permitting the State to establish separate health insurance benefit options for retirees that differ from those offered to employees; and

- establishing a fee on drivers with more than five points including a \$500 annual fee for three years on drivers convicted of drunk or drugged driving.

Among the transfers to the General Fund authorized in the BRFA are from the Circuit Court Real Property Records Improvement Fund (\$10 million); from the State Insurance Trust Fund (\$2 million); and from the Bay Restoration Fund (\$90 million). The BRFA also requires each county and Baltimore City to reimburse the State 90% of the costs of the Department of Assessments and Taxation for real property and business personal property valuation, as well as 90% of certain information technology costs.

State employee and teacher pension system changes proposed in the BRFA include:

- for existing employees and teachers for FY 2012:
  - a one-time irrevocable choice to either continue to pay 5% of salary with an adjusted benefit reduction to a 1.5% per year multiplier for service after July 1, 2011; or
  - to increase the contribution rate to 7% and maintain the current 1.8% per year multiplier;
- for new employees and teachers as of July 1, 2011:
  - the employee contribution rate increases from 5 to 7%;
  - the multiplier decreases from 1.8% to 1.5%;
  - the number of years used to calculate the average final compensation increases from three to five years;
  - the number of years required to vest increases from five to ten years;
  - the normal service retirement age increases to 65 from 62, although members at any age will still be able to retire with full benefits after 30 years of service;
  - the early retirement age increases to 60 from 55; and
  - the cost-of-living adjustment for retirees in the new system is capped at 1% in years in which pension fund investments do not earn the investment target.



# The Legislative Wrap-Up

Library and Information Services, Department of Legislative Services

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Issue 11-4

January 31 - February 4, 2011

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(Click on Issue above for previous Wrap-Ups)

## BILL INTRODUCTIONS

The Senate bill count has reached 455 with a large number of measures expected by 5:00 p.m. on Monday, February 7, after which Senate bills will be referred to the Senate Rules Committee and subject to an additional step before floor consideration. The House bill count stands at 454. Delegates have until the close of business on February 10 to drop bills in the hopper before referral to the House Rules Committee.

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## STATE OF THE STATE

At noon on Thursday, February 3, Governor Martin O'Malley addressed the Senate of Maryland and the House of Delegates jointly assembled in the House chamber. In a short speech the Governor pronounced the State of the State as challenged, but "stronger than two years ago, stronger than it was even a year ago, but better isn't good enough."

The Governor acknowledged that State government must do its part to practice fiscal responsibility and that the best option in bad economic times is to protect Maryland's priorities such as public education, public health, and public safety with level funding. He would also continue reducing the size and cost of government by, for example, merging the Higher Education Commission and Department of Education and fixing and saving the State's pension system.

However, balancing the budget and reducing government won't be enough. He said that Maryland must move forward with an "Innovation Economy" encompassing bio-tech, green-tech, clean-tech, cyber security, information technology, aerospace, global trade, and next generation manufacturing. Gubernatorial initiatives toward this end include the:

- *InvestMaryland* proposal, a premium tax credit to spur venture capital investment by offering insurance companies the opportunity to forward pay taxes at a discounted rate in exchange for an up-front investment in the program;

- *Maryland Made Easy* program, recently launched to simplify and streamline business licensing and permitting in the State; and
- *Maryland Offshore Wind Energy Act*, a proposal to create more renewable energy, reduce greenhouse gas emissions, and to create more green manufacturing, assembly, and servicing jobs.

Another effort, Complete College Maryland, will support a stronger workforce through competitive grants to colleges and universities that implement initiatives to help students complete their degrees or certificates. An environmental proposal would ban the use of new septic systems in major housing developments.

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## COURTS AND CIVIL PROCEEDINGS

The Religious Freedom and Civil Marriage Protection Act ([SB 116](#), [HB 55](#), and [HB 175](#)) makes same-sex marriage legally valid in Maryland. [SB 116](#) is scheduled for a Senate committee hearing next week.

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## CRIMES, CORRECTIONS, AND PUBLIC SAFETY

Legislation making it lawful for a person to intercept an oral communication made by a law enforcement officer in a public place and in the course of the officer's regular duty ([HB 45](#)) was before a House committee this week. The bill also authorizes a law enforcement officer to intercept an oral communication in the course of the officer's regular duty without the current Maryland Wiretap Act requirement of informing all other parties to the communication of the interception at the beginning of the communication.

The application of the Maryland Wiretap Act to citizen recordings of police activity captured national attention last year with regard to an incident in Harford County involving a video made during a traffic stop by the motorcyclist who was the target of the stop.

A report to a "Crime Stoppers" organization that alleges criminal activity, or evidence of such a report, is not admissible as evidence in a court proceeding under [SB 68](#), which had a Senate committee hearing recently. As

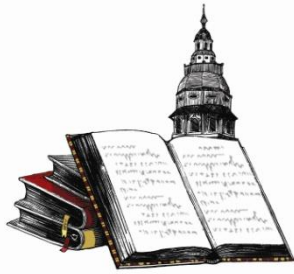
well, a law enforcement agency is prohibited from disclosing the identity of an individual who reported information concerning alleged criminal activity to a “Crime Stoppers” organization under a promise of anonymity.

[SB 97](#) expands the circumstances under which a court may enter a judgment of restitution with respect to a victim of identity fraud to include (1) detrimental alteration of a victim’s consumer report as a direct result of an identity fraud offense; and (2) “financial damage or loss” incurred by the victim as a direct result of identity fraud.

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## **HEALTH CARE AND HEALTH INSURANCE**

Medical marijuana bills have been introduced in both chambers as crossfiled legislation. [SB 308/HB 291](#) have not yet been scheduled for hearings.



# The Legislative Wrap-Up

Library and Information Services, Department of Legislative Services

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Issue 11-5

February 7-11, 2011

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*(Click on Issue above for previous Wrap-Ups)*

## BILL INTRODUCTIONS

Following the expiration of the Senate and House bill introduction deadlines this week, bills may be introduced but are assigned to the Senate or House Rules Committees. Bills referred to the Rules Committees are generally re-referred to the appropriate standing committee if the sponsors of the late-filed bills provide a reasonable explanation as to why the bills were introduced after the bill introduction deadlines. After March 11, the 55<sup>th</sup> day of the 2011 session, bills may not be introduced without suspension of the Senate or House rules which requires a two-thirds vote of the elected membership of the Senate or the House. As of Friday, February 11, 833 Senate bills and 1,140 House bills have been introduced.

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## COURTS AND CIVIL PROCEEDINGS

The Religious Freedom and Civil Marriage Protection Act ([SB 116](#)) received testimony this week. Under current State law, only a marriage between a man and a woman is valid in Maryland. [SB 116](#) repeals the reference to a man and a woman and specifies that only a marriage between two individuals who are not otherwise prohibited from marrying is valid in Maryland. Under the bill, an official of a religious institution or body authorized to solemnize marriages is not required to solemnize any marriage in violation of the right to the free exercise of religion. Hearing dates have not been set for identical House bills ([HB 55](#) and [HB 175](#)).

[SB 50](#), which has passed in the Senate, makes a victim of domestic violence eligible to receive an award from the Criminal Injuries Compensation Fund for the reasonable costs of up to 14 days of temporary lodging if the victim is eligible for an award from the fund as the result of an injury from the domestic violence incident and sought temporary lodging to avoid further injury.

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## CRIMES, CORRECTIONS, AND PUBLIC SAFETY

Committees heard testimony recently on [SB 171/HB 189](#) that designate several chemical compounds known as synthetic cannabinoids as Schedule I controlled

dangerous substances. Synthetic cannabinoids are chemically engineered substances that are similar to THC, the active ingredient in marijuana. When smoked or ingested they produce a high similar to marijuana. For a drug or substance to be classified as Schedule I, it must have a high potential for abuse and have no currently accepted medical use in the United States, and it must be shown that there is a lack of accepted safety for use of the drug or other substance under medical supervision.

Constituents provided their views on several gun bills before a Senate committee:

- [SB 161](#) requires the Secretary of State Police to disapprove an application for a firearms dealer's license if the applicant intends that a person not qualified for a license or whose license has been revoked or suspended will participate in or hold an interest in the business and establishes recordkeeping and reporting requirements for licensees;
- [SB 162](#) reduces, from 20 to 10, the maximum capacity for ammunition in a detachable magazine for a firearm that can be manufactured, sold, purchased, received, or transferred in the State and similarly reduces the number of rounds of ammunition in a magazine or an assault pistol which, when used by a person in the commission of a felony or crime of violence, results in that person being guilty of a misdemeanor and subject to criminal penalties ([HB 330](#) is similar);
- [SB 173](#), an Administration bill, adds the illegal possession of a regulated firearm by a person previously convicted of a crime of violence or drug crime to the crimes for which an inmate may earn good conduct diminution credits at a rate of 5 days per calendar month, rather than 10 days per calendar month ([HB 172](#) is the companion);
- [SB 174](#), another Administration bill, expands the current misdemeanor prohibition against the use of a handgun or concealable antique firearm in the commission of a crime of violence or felony to apply to any "firearm," without regard to its capability of being concealed ([HB 161](#) is the companion);

- [SB 239](#) establishes enhanced penalties for certain handgun and regulated firearms prohibitions if the weapon is loaded with ammunition at the time of the violation ([HB 252](#) is the companion);
- [SB 240](#) expands prohibitions and restrictions against the use and possession of firearms ([HB 241](#) is the companion); and
- [SB 311](#) prohibits a person from carrying or possessing any firearm, knife, or deadly weapon on the property of a public institution of higher education in the State. Violation is a misdemeanor with a maximum punishment of three years in jail and a \$1,000 fine, but the sentencing for a violation with a handgun must be under the penalty provisions applicable to handgun violations.

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## ECONOMIC AND BUSINESS ISSUES

The Job Applicant Fairness Act ([SB 132/HB 87](#)), heard in Senate and House committees this week, prohibits employers from using an individual's credit report or history to deny employment to a job applicant, discharge an employee, or determine compensation or other conditions of employment. Similar bills introduced last session received unfavorable committee reports.

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## EDUCATION

Under current State law, a local jurisdiction must provide at least as much funding per pupil to the local school system as it provided in the previous fiscal year. This is known as "maintenance of effort" (MOE). A county may request a waiver from MOE through the State Board of Education, but if the waiver is not received and the county fails to make MOE, it faces a penalty of withheld funds from State appropriations.

[SB 53/HB 44](#) clarify the MOE waiver request process. The bills also change the date by which a waiver must be requested by a local jurisdiction and require the State Board of Education to consider certain fiscal factors such as inflation rate, tax base, and loss of major employer in the county, among others, when considering granting a waiver to a local government.

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## ELECTIONS AND ETHICS

Committee hearings have begun in both the Senate and House for 60 bills related to Maryland's election laws. Among the bills that address campaign procedures, [HB 2](#) increases the filing fees for candidates for congressional, State, and local public office and changes the division and distribution of the filing fees. The filing fees and

distribution have not been altered for many years, with the exception of a change in 1990 that eliminated a requirement that write-in candidates pay filing fees. Under current law and [HB 2](#), a candidate can petition for a waiver of a filing fee based on inability to pay the fee.

Other bills expand requirements for voter identification at the polls:

- [HB 118](#) requires that the statewide voter registration application provide the applicant the opportunity to elect to be required to present identification at the polls. If an individual chooses that option, the individual will be required to present specified photo or other identification when seeking to vote or otherwise be referred to vote a provisional ballot; and
- [HB 288](#) requires a voter to present a current government-issued photo identification in order to vote a regular ballot. A voter who does not have the required identification or indicates a change of residence must vote a provisional ballot.

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## ENVIRONMENT, NATURAL RESOURCES, AND AGRICULTURE

### *Oysters and Fishing*

A bill that revokes a license to catch oysters for anyone caught taking oysters unlawfully was the subject of a recent hearing. [SB 159](#) creates a citation, hearing, license revocation, and appeals process for a person caught unlawfully taking oysters. [HB 273](#) is the companion bill. Other bills related to illegal fishing include [SB 635](#), which creates a similar penalty for unlawfully taking striped bass and crabs, and [SB 655](#), which establishes an enhanced penalty for anyone caught fishing without a license or whose license has been suspended.

Also heard this week was [HB 111](#), a departmental bill that deletes provisions prohibiting the use of specified fishing gear to catch finfish in State tidal waters without a license and the Department of Natural Resources' (DNR) authority to adopt regulations that prohibit a tidal fish licensee from obstructing the cull ring of a hard crab pot at any time in order to catch peeler crabs; and authorizes DNR to adopt regulations governing the manner, methods, and gear for catching and possessing fish.

### *Septic Systems*

[HB 57](#) expands the uses of the Septics Account of the Bay Restoration Fund (BRF) to include providing grants or loans for connecting a property served by a septic system to an existing municipal wastewater facility that

achieves enhanced nutrient removal level treatment. [SB 539](#) is the companion bill. Other bills affecting septic systems include [SB 372/HB 347](#) and [SB 160/HB 177](#).

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## HEALTH CARE AND HEALTH INSURANCE

Senate and House committees have taken testimony on legislation to require carriers to reimburse ambulance service providers directly:

- [HB 83](#) requires insurers, nonprofit health service plans, and HMOs to *directly* reimburse an ambulance service provider for covered services provided to the insured or other individual covered by the policy or contract. An ambulance service provider is entitled to direct reimbursement regardless of ownership, reason for the response, or network status; and
- [SB 154](#) requires insurers, nonprofit health service plans, and HMOs (carriers) to *directly* reimburse certain ambulance service providers that obtain an assignment of benefits from an insured, subscriber, or enrollee for covered services provided. An ambulance service provider that receives direct reimbursement from a carrier may not balance bill an insured, subscriber, or enrollee, other than to collect (1) any copayment, deductible, or coinsurance amount owed; (2) if Medicare is the primary insurer, any amount not owed by Medicare after coordination of benefits; and (3) any payment or charge for noncovered services. “Ambulance service provider” includes only those providers that are owned, operated, under the jurisdiction of, or contracted with, a political subdivision of the State, or a volunteer fire company or rescue squad.

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## HUMAN RESOURCES

[SB 585/HB 28](#) and [HB 380](#) prohibit State agencies and local governments from providing undocumented immigrants with federal, State, or local public benefits, with specified exceptions and unless the benefits are required under federal law. The bills require each State unit or political subdivision to verify the lawful presence status of an adult before providing most public benefits and make it a misdemeanor to provide a false, fictitious, or fraudulent statement or affidavit. Required documentation is a valid Maryland driver’s license or identification card issued by the Motor Vehicle Administration, a U.S. military card or military dependent’s identification card, a U.S. merchant marine card, or a Native American tribal document.

## STATE GOVERNMENT

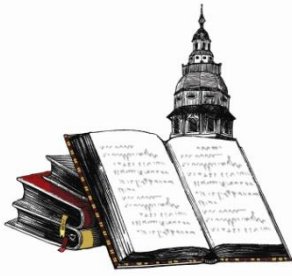
Under consideration are a number of bills that add new special State commemorative dates and designations to Maryland law:

- Commemorative months—Sickle Cell Anemia Awareness Month ([HB 80](#)), German-American Heritage Month ([SB 121/HB 142](#)), and Irish-American Heritage Month ([SB 815](#));
- Commemorative days—Ronald Reagan Day ([SB 238/HB 146](#)), Maryland Women’s History Day ([HB 157](#)), American Indian Heritage Day ([HB 186](#)), Earth Hour ([HB 223](#) and [HJ 5](#)), Young Heroes Day ([SB 224/HB 282](#)), and Korean American Day ([SB 150/HB 439](#));
- Commemorative flag days—Flag Display on State House Grounds - Honor and Remember and POW/MIA Flags ([SB 124/HB 96](#)); and
- Commemorative week — Tween/Teen Dating Violence Education and Awareness Week ([SB 667/HB 386](#)).

Additional designations make Grand Prix motor racing the State motor vehicle speed competition in celebration of the inaugural Baltimore Grand Prix ([HB 212](#)) and name Millers Island Lighthouse the State lighthouse ([HB 642](#)).

Companion bills ([SB 351/HB 455](#)) request that the Library of Congress approve the replacement of the statue of the Honorable John Hanson with a statue of Harriet Tubman in the National Statuary Hall Collection in the U.S. Capitol. Each state has provided two statues of deceased persons who have been citizens of the state and determined by the state to be worthy of national commemoration. Charles Carroll is the other Marylander whose statue is in the Hall.

Joint Resolutions ([SJ 3/HJ 8](#)) establish a commission to rename Negro Mountain in Garrett County and Polish Mountain in Allegany County to reflect more accurately the history and culture of the region where they are located.



# The Legislative Wrap-Up

Library and Information Services, Department of Legislative Services

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Issue 11-6

February 14-18, 2011

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(Click on Issue above for previous Wrap-Ups)

## GREEN BAG APPOINTMENTS

Gubernatorial appointments for 2011 were submitted to the Senate and House on Friday, February 18 (the official deadline, the 40<sup>th</sup> calendar day of the 2011 session, is Sunday, February 20). In the Senate, the Governor's Appointments Secretary delivered the list of gubernatorial appointments in the official Green Bag of Maryland. The green leather bag, embossed with the Maryland Great Seal, is modeled on the green bags used by English barristers of old to convey official documents. With the exception of this annual presentation ceremony, the Green Bag resides in the State Archives. Article II, Section 13 of the Maryland Constitution requires the Governor to submit nominations of civil officers to the Senate within 40 days of the beginning of each regular session, although the actual Green Bag is not mentioned.

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## COURTS AND CIVIL PROCEEDINGS

[SB 139/HB 402](#) reduce the time from 2 years to 12 months that the parties in an action for divorce based on the grounds of separation must have lived separate and apart without cohabitation and without interruption before filing for absolute divorce. The legislation also reduces the separation period from 12 months to 6 months for an absolute divorce based on *voluntary* separation.

Late this week, a Senate committee gave a favorable with amendments vote to [SB 116](#), the Religious Freedom and Civil Marriage Protection Act. The committee's votes are listed on the Maryland General Assembly website and the bill is on the Senate's floor agenda for Tuesday, February 22. Identical House bills ([HB 55](#) and [HB 175](#)) are scheduled for House committee hearings next Friday.

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## CRIMES, CORRECTIONS, AND PUBLIC SAFETY

### Crimes

Justice's Law ([SB 295/HB 968](#)) expands the list of persons who can be convicted of first degree child abuse

to include a family member or household member. The maximum penalties for first degree child abuse resulting in death of the victim and a subsequent conviction for child abuse resulting in death of the victim increase from 30 years imprisonment to imprisonment for life.

[SB 237/HB 359](#) create a new felony that occurs when a person age 18 or older sells a controlled dangerous substance to a minor and the minor dies as a direct result of the use or ingestion of the substance. The maximum sentence for the crime is 20 years imprisonment.

Human trafficking bills also received testimony this week:

- [SB 247/HB 418](#) expand the crime of human trafficking by prohibiting a person from knowingly recruiting, harboring, transporting, providing, or obtaining a person for labor or services and subjecting the person to involuntary servitude or debt bondage through force, fraud, or coercion. State or local law enforcement is authorized to seize property in connection with a violation of the human trafficking law. The Anti-Human Trafficking Fund is established with proceeds from the sale of the property to provide funding for victims and law enforcement units and organizations that combat human trafficking;
- [SB 299/HB 345](#) add human trafficking to the list of crimes for which evidence may be gathered during a criminal investigation through the interception of oral, wire, or electronic communications; and
- [SB 327/HB 266](#) authorize a court to order a defendant convicted of human trafficking to pay restitution to a victim for certain expenses incurred by the victim. They also authorize a person convicted of prostitution to file a petition to vacate the judgment if the person's involvement in prostitution was the result of having been a victim of human trafficking.

### *Immigration Status and Law Enforcement*

A House committee heard testimony on legislation that:

- requires the Division of Correction and Division of Parole and Probation is required under to forward

information about prisoners' immigration status gleaned from case records and presentence investigation reports to the U.S. Immigration and Customs Enforcement Agency ([HB 239](#));

- requires each law enforcement agency in the State to enter into a memorandum of understanding with the federal government concerning the enforcement of federal immigration laws and to provide appropriate training to each law enforcement officer who will be performing immigration enforcement ([HB 276](#));
- requires a court or District Court commissioner to ask a criminal defendant to provide information, including documentation, relating to the defendant's legal status in the United States. The information may be considered in deciding whether to authorize the defendant's pretrial release on bail or personal recognizance ([HB 272](#)); and
- prohibits a judge or District Court commissioner from authorizing the pretrial release of defendants who cannot prove they are legally in the U.S. ([HB 342](#)).

#### *Juvenile Services*

Under [SB 787/HB 511](#), the Department of Juvenile Services (DJS) must provide females with a range and quality of services and programs substantially equivalent to those offered to males and submit a report on the manner in which the department will use existing resources to accomplish this in fiscal 2013 and beyond.

In 2004 a Juvenile Services Education Program was established within the Maryland State Department of Education (MSDE) to provide educational services in all residential facilities of DJS. [SB 62](#) authorizes MSDE and DJS to share information and court records of juveniles receiving MSDE educational services in a DJS facility to ensure the appropriate delivery of services for the Program.

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## **ECONOMIC AND BUSINESS ISSUES**

### *Invest Maryland Program*

Governor O'Malley testified before a committee this week in support of a new State-supported venture capital program. [SB 180/HB 173](#), Administration bills, establish the Maryland Venture Capital Authority to solicit cash from insurance companies in exchange for tax credits gained through a competitive bidding process. The cash then goes to an Enterprise Fund for distribution among the Enterprise Fund, venture capital firms, and the Small Business Development Financing Authority. Along with venture firms, certain businesses with principal

operations in the State also qualify for investments. The bill authorizes \$142 million in credits.

### *Public Utilities*

Public utility bills this session include:

- [SB 304](#) that creates a Maryland Renewable Energy Fund to promote energy efficiency and renewable energy generation technology, partly funded by a surcharge on residential retail electricity customers exceeding a certain amount of electricity consumption;
- [SB 244/HB 597](#) that require the Public Service Commission (PSC) to educate consumers on competitive electric supply options through a dedicated page on their website and public service announcements;
- [SB 271/HB 275](#) that add a closed conduit hydroelectric generating facility to the list of facilities eligible for net energy metering; and
- [SB 314](#) that prohibits the PSC from exempting wind-powered electricity generating stations, not including those for on-site consumption, from the Certificate of Public Convenience and Necessity requirement.

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## **EDUCATION**

### *Financial Literacy - Graduation Requirement*

Bills concentrating on financial literacy as a graduation requirement for Maryland high school students received hearings this week. [SB 262/HB 127](#) and the identical [HB 224](#) require the State Board of Education to develop curriculum content for a semester-long course in financial literacy. Currently, development of curriculum content is done only at the local level and approved by the State. Each local board of education must implement the curriculum in every high school under the board's jurisdiction, and a student must complete the course in order to graduate from high school.

### *Tuition Charges - Maryland High School Students*

A bill ([SB 167](#)) to exempt individuals who attended and graduated from Maryland high schools from paying nonresident tuition at public institutions of higher education in Maryland gathered testimony this week. To qualify for an exemption from paying nonresident tuition, an individual must:

- have attended a secondary school in the State for at least two years;

- have graduated from a high school in the State or received the equivalent of a high school diploma in the State;
- register as an entering student at a public institution of higher education in Maryland no earlier than the fall 2011 semester;
- provide documentation that the individual or the individual's parent or guardian has had Maryland income tax withheld during the year prior to high school graduation; and
- make application to attend the institution within three years of high school graduation.

HB 253 of 2003 would have extended in-state tuition benefits to undocumented and other immigrants who attended and graduated from Maryland high schools. The bill passed the General Assembly but was vetoed.

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## ELECTIONS AND ETHICS

Bills allowing the use of campaign funds by a candidate or elected official for travel, lodging, meals, and registration expenses to attend meetings or conferences and other activities focused on issues pertinent to the office sought or held are moving through the process ([SB 119/HB 122](#)).

A campaign finance law loophole is closed by [SB 339](#) and [HB 322](#) to make individual owners of a limited liability corporation (LLC) and other business entities with common ownership or control count as single entities for contribution limits. Currently, the individual and corporation limit is \$4,000 per candidate and \$10,000 to all candidates during the four-year election cycle. The bills address the unequal treatment of corporations and LLCs, since LLCs with common ownership are treated as unrelated entities for the purpose of campaign contribution limits, while corporate subsidiaries are treated as functionally part of one corporation.

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## ENVIRONMENT, NATURAL RESOURCES, AND AGRICULTURE

### *Oysters and Fishing*

[SB 159](#), discussed on the Senate floor this week, and the companion, [HB 273](#), heard by a House committee, revoke a license to catch oysters for anyone caught taking oysters unlawfully and create a citation, hearing, license revocation, and appeals process.

### *Septic Systems*

Reducing the amount of nitrogen in the Chesapeake Bay is the goal of several bills before the legislature. [SB 160/HB 177](#) prohibit the installation of a septic system in the State in the watersheds of the Chesapeake and Atlantic Coastal Bays to service a newly constructed building unless the system utilizes nitrogen removal technology. [SB 846/HB 1107](#) also restrict the installation of septic systems. [SB 372/HB 347](#) require the Department of the Environment to evaluate and rank nitrogen removal technologies for septic systems to advise local governments and citizens of the State of approved technologies that qualify for funding under the Bay Restoration Fund.

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## FISCAL MATTERS

### *Military Retirement*

[SB 190/HB 774](#) expand the existing military retirement income tax subtraction modification by increasing from \$5,000 to \$10,000 the maximum amount of retirement income that can be excluded from the State income tax. The bill takes effect July 1, 2013, and applies to tax years 2013 and beyond.

### *Electric Vehicle Recharging Equipment*

[SB 177/HB 163](#) create a tax credit for 20% of the cost of qualifying electric vehicle recharging equipment. The value of the credit may not exceed the lesser of \$400 or the State income tax imposed in the tax year. The Maryland Energy Administration will administer the program and may award a maximum of \$400,000 in credits in tax year 2011, \$500,000 in tax year 2012, and \$600,000 in tax year 2013. To offset the reduction of revenues from the credit, the bill requires a transfer of these amounts from the Maryland Strategic Energy Investment Fund to the general fund in the appropriate fiscal years. With an effective date of July 1, 2011, the bill applies to tax year 2011 through 2013.

On the same subject, the Senate passed legislation ([SB 179](#)) to start a pilot program under the PSC for charging electric vehicles during off-peak hours. [HB 164](#) is the crossfiled measure.

### *Recordation of Appeals*

The Senate passed [SB 69](#) to authorize a homeowner to record a property assessment appeal hearing at the property owner's expense. The Department of Assessments and Taxation is not required to provide the recording equipment. The companion bill is [HB 141](#).

## GAMING, RACING, AND SPORTS

### *Slot Machines - Eligible War Veterans' Organizations*

Maryland law authorizes certain nonprofit organizations in eight Eastern Shore counties to license up to five slot machines per organization. At least one-half of the proceeds must go to charity with the remainder to go to the organization. Under [SB 4/HB 735](#), all counties may authorize bona fide war veterans' organizations that have been located in the State for at least five years to license up to five slot machines.

### *Video Lottery Operation Licensees - Noninterference*

Recently, a Senate committee heard [SB 373](#) concerned with ensuring noninterference of one video lottery operation licensee with another. The bill prohibits a video lottery operation licensee from directly or indirectly interfering with, hindering, obstructing, impeding, or taking any action to delay the implementation or establishment of a video lottery facility by any other licensee or applicant. [HB 868](#) is an identical measure.

individuals in accessing public programs, premium tax credits, and cost-sharing reductions.

Under the federal ACA, enacted in March 2010, each state must establish a health benefit exchange that facilitates the individual purchase of QHPs. Initial structure and governance must be established by March 23, 2012. If a state fails to act, the federal government will step in to establish an exchange by January 1, 2013.

### *Health Insurance - Conformity with Federal Law*

[SB 183/HB 170](#) alter State insurance law to conform to federal requirements under the ACA and allow the Maryland Insurance Commissioner to enforce such requirements. The bills also correct a portion of Maryland's Mental Health Parity Law to meet the requirements of the federal Mental Health Parity and Addiction Equity Act of 2008. The legislation applies to all group and individual health benefit plans for plan or policy years that begin on or after July 1, 2011; its effective date is July 1, 2011. The bills require insurers, nonprofit health service plans, and health maintenance organizations to follow specific provisions of ACA currently in effect, including:

- coverage of children up to age 26;
- preexisting condition exclusions;
- policy rescissions;
- wellness programs;
- lifetime limits;
- annual limits for essential benefits;
- waiting periods;
- designation of primary care providers;
- access to obstetrical and gynecological services;
- emergency services;
- summary of benefits and coverage explanation;
- minimum loss ratio requirements and premium rebates; and
- disclosure of information.

### *Decabrominated Diphenyl Ether*

[SB 221](#) was also heard this week in the Senate that modifies the current total phase-out of decabrominated diphenyl ether (decaBDE) in specified products to allow trace amounts of up to 0.1% decaBDE by mass. The crossfiled measure is [HB 54](#).

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## HEALTH CARE AND HEALTH INSURANCE

A number of Administration bills were heard in Senate and House committees this week. Some of these measures relate to the enhancement of health entities in the State and/or to the implementation of the federal Patient Protection and Affordable Care Act (ACA) provisions:

### *Maryland Health Quality and Cost Council*

[SB 175/HB 165](#) codify the Maryland Health Quality and Cost Council, which was created by Executive Order 01.01.2007.24 in October 2007 to coordinate best practices of the private and public sector to improve health care in the State. The council consists of the Secretary of Health and Mental Hygiene and 13 members appointed by the Governor, at least 10 of whom must represent health insurance carriers, employers, health care providers, consumers, and experts in health care quality and cost containment.

### *Maryland Health Benefit Exchange*

[SB 182/HB 166](#) establish the governance, structure, and funding of the Maryland Health Benefit Exchange, an independent unit of government designed to reduce the number of uninsured; facilitate the purchase and sale of qualified health plans (QHPs) in the individual market; assist qualified employers in facilitating the enrollment of their employees in QHPs in the small group market and in accessing small business tax credits; and assist

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## REAL PROPERTY, ESTATES, AND TRUSTS

Bills that aim to help homeowners in foreclosure discover the identity of their lender and the lender's contact information include:

- [SB 205/HB 366](#) that require an agent of a secured party to sign a notice of intent to foreclose (NOI) a mortgage or deed of trust on residential property and affirm under the penalty of perjury that its contents are true to the best of the agent's knowledge, information, and belief;
- [SB 206/HB 691](#) that define "secured party" as the owner of a debt instrument secured by a mortgage or deed of trust on residential property. "Secured party" excludes the Mortgage Electronic Registration Systems, Inc., or other similar registries or databases that track mortgage loan servicers or owners; and
- [SB 450/HB 412](#) that prohibit a court from accepting a lost note affidavit in lieu of a copy of the debt instrument in a foreclosure action, unless the affidavit contains specific information including a description of the good faith efforts made to produce a copy of the debt instrument.

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## TRANSPORTATION

### *Texting While Driving*

Several bills seek to strengthen the prohibition against using hand-held cell phones while driving. Hearings were conducted this week on three of them:

- [HB 196](#) prohibits a driver from reading any text message while in a travel lane of a roadway, regardless of whether the car is in motion. Current law forbids the driver to write or send a text message while the vehicle is in motion, but does not prohibit reading a message;
- [HB 221](#) continues the prohibition against a person under age 18 from using any wireless communication device, hand-held or hands-free, while driving, and further defines the prohibition to include writing or sending a text message while in the travel portion of a roadway. Exceptions are made for calling 9-1-1 or using a Global Positioning System; and
- [HB 222](#) makes any use of a cell phone by a minor, or the use of a hand-held phone by an adult, a primary offense. Currently the prohibition against using wireless communications while driving is a secondary offense, enforceable only if an officer witnesses a primary offense and the driver is using a cell phone at the same time. Current law applies the prohibition to drivers of vehicles in motion, but the new law applies it to the driver of a vehicle that is in a travel lane of a roadway.

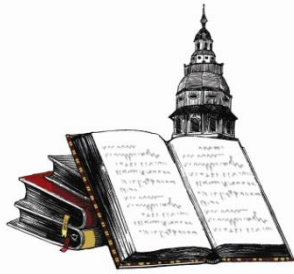
In other action, [SB 396](#) and its crossfile, [HB 779](#), add a definition of the word "operating" so that the crime of manslaughter by vehicle can take into account acts involving loading, unloading, or securing a load on a vehicle or attaching a trailer hitch or luggage rack to a vehicle.

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## NEXT WEEK

The Senate and House are charged by the Maryland Constitution to elect the State Treasurer by joint ballot during the first session of the four-year term, a majority of the combined votes being necessary to win. Maryland is one of four states whose legislature selects the State Treasurer. The current Treasurer, Nancy K. Kopp, was elected by the legislature in 2002 when Richard N. Dixon, first elected to the office in 1996, resigned. Both Kopp and Dixon were former members of the House of Delegates. The General Assembly re-elected Treasurer Kopp in 2003 and in 2007.

The election process has two steps. First, the Special Joint Committee to Select the State Treasurer will interview the applicants for the Office at 4:30 p.m., Wednesday, February 23, in Room 111, Legislative Services Building, in Annapolis. The committee is chaired by Senator Norman R. Stone, Jr. and Delegate Adrienne A. Jones. Secondly, at the Thursday morning floor session on the following day, February 24, the General Assembly will elect the Treasurer by joint ballot.



# The Legislative Wrap-Up

Library and Information Services, Department of Legislative Services

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Issue 11-7

February 21-25, 2011

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(Click on Issue above for previous Wrap-Ups)

## 45<sup>th</sup> DAY

On Friday, February 25, the 2011 General Assembly passed the halfway point in its 90-day session. Adjournment *sine die* is April 11 at midnight. At the halfway point, 2,234 bills and 16 resolutions are in the legislative pipeline. There are 937 Senate bills and 6 Senate resolutions, along with 1,297 House bills and 10 House resolutions.

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### ELECTION OF STATE TREASURER

On February 23, by joint ballot, the General Assembly elected Nancy K. Kopp to a third four-year term as Maryland's State Treasurer. Treasurer Kopp was first elected to the post in February 2002 to fill the last year of the term of then Treasurer, Richard N. Dixon, who had resigned. She was then reelected to full terms in 2003 and 2007. Prior to her election as Treasurer, Kopp had served for 28 years (1975-2002) as a distinguished member of the House of Delegates representing District 16, Montgomery County.

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### SPEAKER'S SOCIETY PRESENTATIONS

In conjunction with the Speaker's Society, which was established in 1995 for current and former delegates to meet together annually, three awards were created to recognize Marylanders of merit. This week, the recipients of the 2011 awards were recognized.

The Speaker's Medallion is given in memory of Thomas Kennedy, a former member of the House, for his courageous stand on principle. Through Kennedy's efforts, in 1826 the General Assembly extended the same rights and privileges enjoyed by Christians to people of the Jewish faith. The 2011 award went to Ronald R. Peterson, President of the Johns Hopkins Hospital and Health System, and Dr. Edward D. Miller, Chief Executive Officer of Johns Hopkins Medicine. The recipients have worked together for 15 years at Johns Hopkins to further the successful delivery of outstanding health care in Maryland.

The Casper R. Taylor, Jr., Founders Award is presented to a sitting delegate to honor steadfast commitment to

public service and to the integrity of the House. The 2011 award went to Delegate Rudolph C. Cane, District 37A, Dorchester and Wicomico Counties, who has been a member of the House of Delegates since 1999. Delegate Cane is a member of the Environmental Matters Committee, House Chair of the Joint Subcommittee on Program Open Space/Agricultural Land Preservation, Vice Chair of the House Rules and Executive Nominations Committee, and a member of the Joint Committee on Legislative Ethics.

The Thomas Kennedy Award is given to a former House member for personal courage and dedication to the principles of liberty and freedom. This year's award went to U.S. Congressman Elijah Cummings. Cummings began his career of public service in the Maryland House of Delegates, where he served for 16 years and became the first African American in Maryland history to be named Speaker Pro Tem. Since 1996, Representative Cummings has represented Maryland's 7th Congressional District in the U.S. House of Representatives.

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### COURTS AND CIVIL PROCEEDINGS

#### *Marriage*

The Senate passed [SB 116](#), amended to be the Civil Marriage Protection Act. The bill specifies that only a marriage between two individuals who are not otherwise prohibited from marrying is valid in Maryland. As amended, the legislation prohibits requiring religious entities to provide services, accommodations, advantages, facilities, goods, or privileges to an individual if the request to do so is related to actions that violate the entities' religious beliefs; and prohibits requiring fraternal benefit societies that are operated, supervised, or controlled by a religious organization to admit an individual as a member or to provide insurance benefits to an individual if that would violate the societies' religious beliefs.

A House committee held a hearing late this week on same-sex marriage legislation introduced in the House, including the Religious Freedom and Civil Marriage Protection Act ([HB 55](#) and [HB 175](#)) that is similar to [SB](#)

116 as it was introduced, and Maryland's Marriage Protection Act (HB 963) that amends the Maryland Constitution to establish that a marriage between a man and a woman is the only domestic legal union valid or recognized in this State.

#### *Divorce - Ownership of a Pet*

SB 814/HB 770 authorize a court to assign ownership of a pet if there is an ownership dispute during the granting of an annulment or a divorce. The court decree may grant sole ownership of the pet to one party; sole ownership of the pet to one party with visitation rights granted to the other party on a schedule that the court determines; or ownership of the pet to both parties with custody to be shared by both parties on a schedule that the court determines. The court may not order either party to make any payment for pet maintenance or other expenses to the other party.

#### *Circuit Court Judges*

Constitutional amendments were introduced and have failed this session that would have repealed current law that requires a circuit court judge to face a contested election within two years of gubernatorial appointment and every 15 years thereafter and would have mandated an uncontested "retention" election after appointment by the governor and every 10 years thereafter, mirroring the current requirements for appellate court judges (HB 309 and HB 375).

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## CRIMES, CORRECTIONS, AND PUBLIC SAFETY

#### *Crimes*

The House passed HB 345, which adds human trafficking to the list of crimes for which evidence may be gathered during a criminal investigation through the interception of oral, wire, or electronic communications.

Under HB 606, the use or possession of less than 28.5 grams (approximately 1 ounce) of marijuana is classified as a civil offense, subject to a fine of up to \$100. Law enforcement officers must issue a citation if they have probable cause to believe that the offense has been or is being committed. Currently, use or possession of marijuana is a misdemeanor, with a maximum criminal penalty of a year in jail and a \$1,000 fine. Current criminal penalties still apply to the use or possession of 28.5 grams or more of marijuana.

#### *Animal Welfare*

Bills that promote animal welfare include:

- SB 425/HB 294 that make it a misdemeanor to inflict unnecessary suffering or pain on an animal

through the use of a rifle, handgun, or certain other weapons, with a maximum penalty of one year in jail and a \$5,000 fine. The bills also increase the maximum jail time for abuse or neglect of an animal from 90 days to six months and increase the maximum fine from \$1,000 to \$2,500;

- SB 115/HB 227 that authorize a court, as a condition of sentencing, to prohibit a defendant convicted of aggravated cruelty to an animal or abuse or neglect of an animal from owning, possessing, or residing with an animal for a specified period of time;
- SB 747/HB 407 that allow an interim, temporary or final protection order to order a respondent to remain away from a certain pet or service animal, to refrain from cruelty or aggravated cruelty toward the pet or service animal, or in certain circumstances, to give the pet or service animal to a certain person; and
- SB 639/HB 339 that establish a Task Force on the Establishment of a Statewide Spay/Neuter Fund to review data on successful local spay/neuter programs and the unmet need for these services and make recommendations regarding the establishment of a spay/neuter fund that best meets the needs of the State.

#### *Parole and Probation*

SB 583/HB 964 establish a Recidivism Reduction Pilot Program in the Division of Parole and Probation (DPP) that results in at least 50% of supervised individuals being supervised in accordance with "evidence-based practices." The goal is to reduce the offender's potential for recidivism and increase the offender's ability to establish and maintain a more productive lifestyle.

SB 801/HB 919 require the DPP to implement by January 1, 2012, a Swift and Certain Sanctions Pilot Program involving a system of graduated sanctions for violations of conditions of community supervision and positive reinforcements for compliance with conditions of supervision.

#### *Failed Legislation*

Legislation that received an unfavorable committee vote recently would have:

- designated several chemical compounds known as synthetic cannabinoids as Schedule I controlled dangerous substances (HB 189);
- made it lawful for a person to intercept an oral communication made by a law enforcement officer in a public place and in the course of the officer's regular duty and would have authorized a law enforcement officer to intercept an oral

communication in the course of the officer's regular duty without the current Maryland Wiretap Act requirement of informing all other parties to the communication of the interception at the beginning of the communication ([HB 45](#)); and

- made a report to a "Crime Stoppers" organization that alleges criminal activity, or evidence of such a report, inadmissible as evidence in a court proceeding and prohibited a law enforcement agency from disclosing the identity of an individual who reported information concerning alleged criminal activity to a "Crime Stoppers" organization under a promise of anonymity ([HB 419](#)).

Failed measures also included bills that addressed the immigration status of prisoners ([HB 239](#)); enforcement of federal immigration laws by Maryland law enforcement agencies ([HB 276](#)); and the use of the legal status of a defendant as a basis for authorization of pretrial release ([HB 272](#) and [HB 342](#)).

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## ECONOMIC AND BUSINESS ISSUES

The Maryland Electricity Service Quality and Reliability Act ([SB 692/HB 391](#)) establishes a State goal that electric companies rank in the top quartile nationally with regard to service quality and reliability. Additionally, the Administration measures require the Public Service Commission (PSC) to adopt regulations implementing standards for electric companies concerning service interruption, downed wire repair, service quality, vegetation management, and annual reliability reporting. The bills further require the PSC to evaluate compliance among electric companies and authorize the PSC to impose civil penalties for violations of their outstanding directions, rulings, orders, or regulations.

Also on the topic of utility regulation, [HB 596](#) requires each distribution utility (electric, gas, or electric and gas company) to provide competitive suppliers with certain customer account information upon request. Distribution utilities must notify customers and provide an opt-out option, and competitive suppliers may only use customer information for marketing their services. A similar bill, [SB 704](#), will be heard on March 8.

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## ELECTIONS AND ETHICS

[HB 257](#) has moved to the opposite chamber to allow an individual under the age of 18 (current law says under the age of 13) who accompanies a voter to have access to the *voting room* at a polling place, subject to specified requirements, including that the individual is not eligible

to vote in that election. The bill also specifies that an individual over the age of 17 (current law says over the age of 12) may not accompany a voter into a *voting booth* unless the individual is providing specified assistance to a voter. The companion bill, [SB 225](#), has received preliminary approval in the Senate.

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## ENVIRONMENT, NATURAL RESOURCES, AND AGRICULTURE

### *Septic Systems*

The House passed [HB 57](#), which expands the uses of the Septics Account of the Bay Restoration Fund to include providing grants or loans for connecting a property served by a septic system to an existing municipal wastewater facility that is achieving enhanced nutrient removal level treatment. The crossfiled bill is [SB 539](#), which is scheduled for a hearing in March.

### *Oysters and Fishing*

[SB 159](#) has moved to the House, and the companion bill, [HB 273](#), was heard recently by a House committee. The bills revoke a license to catch oysters for anyone caught taking oysters unlawfully and create a citation, hearing, license revocation, and appeals process.

[SB 188](#) has also moved to the House. As amended, the bill authorizes the Department of Natural Resources to issue an annual fishing license requirement exemption to a government entity or a nonprofit organization to take individuals with physical or mental disabilities who are serving or have served in the Armed Forces fishing in the tidal or nontidal waters of the State.

### *Natural Gas Exploration in the Marcellus Shale Formation*

Testimony was heard this week on legislation that addresses concerns about the impact of the hydraulic fracturing process proposed for natural gas exploration and production in the Marcellus Shale formation that underlies parts of Western Maryland. [HB 411](#) requires the Department of the Environment to submit regulations related to the environmental impact of natural gas exploration and production in the Marcellus Shale formation by December 31, 2011. [HB 852](#) more specifically identifies permitting, monitoring, and coordination requirements. A Senate committee will take testimony on the companion measures, [SB 422](#) and [SB 634](#), next week.

## FISCAL MATTERS

### *Alcohol Taxes*

**SB 168/HB 121**, the Lorraine Sheehan Health and Community Services Act of 2011, increase the State tax rates for alcoholic beverages from \$1.50 to \$10.03 per gallon for distilled spirits, from 40 cents to \$2.96 per gallon for wine, and from 9 cents to \$1.16 per gallon for beer. The bills also establish six nonlapsing special funds and specify the distribution of alcoholic beverages tax revenues to the various special funds to be used for health care services and tobacco cessation efforts. The bills take effect July 1, 2011. Another measure, **HB 1213**, increases the taxes by the same amount but creates no special funds and does not change the current allocation of the revenue.

### *Combined Reporting - Corporations*

Under **SB 305/HB 731**, affiliated corporations are required to compute Maryland taxable income using “combined reporting.” The Comptroller is required to adopt regulations consistent with the principles for determining the existence of a unitary business adopted by the multistate Tax Commission. Affiliated corporations are required to file “combined income tax returns,” except as provided in the regulations. A corporation that is a member of a combined group must compute its Maryland taxable income using the combined reporting method prescribed in the bill. The bill takes effect July 1, 2011, and applies to tax year 2012 and beyond.

### *Transportation Trust Fund*

A number of bills are before the General Assembly on the use and disposition of the Transportation Trust Fund (TTF), which is a nonlapsing special fund that provides transportation funding. It consists of tax and fee revenues, operating revenues, bond proceeds, and fund transfers. The Maryland Department of Transportation issues bonds backed by TTF revenues and invests the TTF fund balance to generate investment income. The Maryland Transit Administration, Motor Vehicle Administration, Maryland Port Administration, and Maryland Aviation Administration generate operating revenues that cover a portion of their operating expenditures.

In the past, revenues have been transferred from TTF to the general fund, and the general fund has subsequently repaid TTF. In recent years, a significant portion of the local share of highway user revenue has been diverted to the State’s general fund to help balance the State’s budget. As well, legislation altered the distribution of highway user revenue, further reducing the share of revenues distributed to the counties and municipalities,

while increasing the portion distributed to the general fund.

Before a committee this week, **HB 518** proposes to amend the Maryland Constitution to include TTF and establish rules for its operation and funding. The bill places constitutional restrictions on transfers from TTF and requires TTF funds to be used only to pay the principal of and interest on transportation bonds and for any lawful purpose related to construction and maintenance of an adequate highway system or any other transportation-related purpose.

No part of TTF may revert or be credited to the general fund or to a special fund. Funds may be transferred upon an invasion or a major catastrophe and must be repaid within five years. There are four additional proposed constitutional amendments dealing with restrictions on the use of TTF that will be before committees in early March (**HB 591**, **SB 677**, and **SB 714/HB 1001**).

### *Taxes*

Legislation moving through the committee stage of the legislative process this week addresses:

- decreasing the sales and use tax rate from 6% to 5%, with an effective date of July 1, 2013 (**HB 465**). **SB 675** makes the same decrease, effective July 1, 2011;
- exempting the sale of electricity generated by solar energy equipment for use in residential property or for supply to the electric grid from the State sales and use tax (**SB 398/HB 502**);
- requiring county and municipal governments to establish a semiannual payment schedule for State, county, municipal, and special taxing district property taxes for business property (**HB 463**); and
- reducing the percentage used to determine the Homestead Property Tax Credit for State property tax purposes from 10% to 5%, thereby limiting annual State property tax assessment increases on owner-occupied residential properties to 5% (**HB 576**). The bill applies to all taxable years beginning after June 30, 2012.

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## GAMING, RACING, AND SPORTS

### *Video Lottery Operation Licensees - Noninterference*

The Senate passed an amended **SB 373** this week. The bill is aimed at ensuring noninterference by one video lottery operation licensee with another by prohibiting a video lottery operation licensee from directly or indirectly interfering with, hindering, obstructing, impeding, or taking any action to delay the

implementation or establishment of a video lottery facility by any other licensee or applicant.

The State Lottery Commission must adopt certain regulations, to the fullest extent allowed by the First Amendment of the Constitution of the United States, to implement the bill. As amended, the Commission may also adopt regulations that allow it to impose sanctions and penalties if a licensee knowingly violates this law. A companion bill, [HB 868](#), will be heard in March.

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## **HEALTH CARE AND HEALTH INSURANCE**

### *Bisphenol-A*

Several bills relating to prohibition of bisphenol-A in certain products include:

- [SB 151](#) that prohibits a person, on or after January 1, 2013, from manufacturing, distributing, or knowingly selling a can, jar, or other container containing bisphenol-A (BPA) if the container holds a liquid, food, or beverage intended primarily for consumption by a child younger than age four. A manufacturer must instead use the least toxic alternative and may not replace BPA with specified carcinogens or reproductive toxicants; and
- [HB 4](#) that prohibits a person from manufacturing, distributing, or knowingly selling two types of items on or after January 1, 2012: a sports water bottle containing BPA; and a can, jar, or other container containing BPA at a level of 0.5 parts per billion, if the container contains a liquid, food, or beverage intended primarily for consumption by a child younger than age four. A manufacturer must instead use the least toxic alternative and may not replace BPA with specified carcinogens or reproductive toxicants.

### *Health Insurance*

[HB 15](#) (failed) would have established that a person has the right to choose to participate in a private health insurance system or plan and that, except as required by a court, a person has the right to pay for lawful medical services without interference. The bill was withdrawn.

### *DecaDBE*

[SB 221](#), dealing with a modification to the phase-out provisions concerning decabrominated diphenyl ether (DecaDBE) in various products, has been given approval in the Senate. Amendments include an exemption for certain aircraft from the application of a prohibition on the manufacture, lease, sale, or distribution for sale or lease of certain products that contain DecaDBE. The bill's provisions allow for trace amounts of DecaDBE in

certain products (0.1%) but do not make any changes to the phase-out dates prescribed in current law.

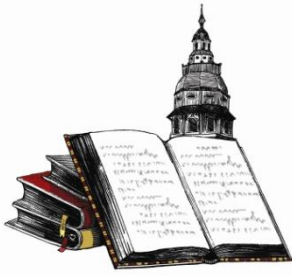
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## **TRANSPORTATION**

### *Manslaughter by Vehicle or Vessel*

[HB 363](#), heard this week by a committee, creates a new misdemeanor of criminally negligent manslaughter by vehicle or vessel for criminally negligent operators of cars, trains, or boats who cause the death of another person. Criminally negligent driving is defined as acting in a way that a reasonable person would realize creates a substantial risk of another person's death. A violator may receive a sentence of up to three years in prison and/or a fine of up to \$5,000.

Under current law, drivers who cause death may be charged with a traffic violation or the felony of gross negligence. The bill, if passed, permits an intermediate penalty. Similar versions of the bill were introduced in both the House and Senate in previous sessions, dating back to 2006, but none of the measures passed.



# The Legislative Wrap-Up

Library and Information Services, Department of Legislative Services

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Issue 11-8

February 28-March 4, 2011

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*(Click on Issue above for previous Wrap-Ups)*

## BILL INTRODUCTION DEADLINE

The number of bills introduced in the Senate has reached 967. The House bill count is 1,329. Monday, March 7, as the 55<sup>th</sup> day of the 2011 session, is the final date for the introduction of bills without suspension of the Senate or House Rules, which requires a two-thirds vote of senators or delegates.

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## COURTS AND CIVIL PROCEEDINGS

### *Contributory Negligence*

Maryland's current common law doctrine of contributory negligence standard bars a plaintiff from receiving any damages for an injury if the plaintiff's own negligence contributed in any way to the harm. Maryland is one of five jurisdictions, along with Virginia, Alabama, North Carolina, and the District of Columbia, that retains this doctrine. Forty-six states follow the doctrine of comparative negligence, under which a plaintiff's recovery can be reduced if the plaintiff was partially at fault. The Maryland Judiciary recently began a study regarding the process and consequences of changing the Maryland standard from contributory negligence to comparative negligence through judicial action.

An emergency bill, The Maryland Contributory Negligence Act ([HB 1129](#)), codifies the contributory negligence standard so that it remains an affirmative defense that may be raised by a party being sued for damages for wrongful death, personal injury, or property damage.

### *Domestic Violence Protective Orders*

Committees in both chambers held hearings this week on legislation that:

- expands the definition of abuse as it applies to petitions for protective orders to include harassment, trespassing, and the malicious destruction of property, making the acts for which a protective order can be issued the same as the underlying acts for a peace order ([SB 653/HB 416](#));

- requires a petition for a protective order to be filed within 30 days after the alleged act of abuse on which the petition is based, conforming it with the time limit for filing a petition to obtain a peace order ([HB 805](#));
- authorizes a judge to order a respondent in a final protective order to be monitored through GPS tracking or similar technology if the judge finds by clear and convincing evidence that the respondent presents a risk of abuse to any person eligible for relief ([HB 872](#));
- requires a court to order a person charged with a violation of an interim, temporary, or final protective order to undergo a mental health evaluation ([SB 587](#)); and
- expands the relief available in a final protective order by authorizing a judge to order any other relief the judge determines to be appropriate under the circumstances to protect a person eligible for relief ([SB 674](#)). A similar bill, [HB 1018](#), gives the same authority to a judge as well as authority to order the respondent to remain a specific distance away from a person eligible for relief and to prohibit the respondent from being on a public or private road or parking lot adjacent to the residence of a person eligible for relief without a lawful purpose.

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## CRIMES, CORRECTIONS, AND PUBLIC SAFETY

### *Domestic Violence Assault*

A separate crime of domestic violence assault, distinguished from other assaults by the victim being in a certain domestic or personal relationship with the offender, is established by [SB 651/HB 820](#). The offense is a misdemeanor with a maximum penalty of 10 years in jail and a \$2,500 fine. A defendant who has previous convictions for specified offenses against the same victim is subject to enhanced penalties including mandatory minimum jail time that may not be suspended. Two or more previous convictions make the crime a felony.

*Serious Physical Injury - Strangulation and Suffocation*

**SB 593/HB 819** expand the definition of “serious physical injury” to include strangulation and suffocation with respect to first degree assault, reckless endangerment, abuse or neglect of a vulnerable adult, and local domestic violence fatality review teams.

*Child Neglect*

Administration bills **SB 178/HB 162**, with committee hearings this week, establish the felony crime of child neglect that carries a maximum penalty of 10 years in jail and a \$10,000 fine. Neglect of a minor by a parent, family member, household member, or other person who has permanent or temporary care or custody or responsibility for the supervision of a minor is included in the crime. Neglect is defined as the intentional failure to provide necessary assistance and resources for the physical needs of a minor, including food, clothing, toileting, essential medical treatment, shelter, or supervision.

*Sex Offender Tracking*

**SB 208** and **HB 594** require a court to require certain sex offenders to register for electronic tracking with the Department of Public Safety and Correctional Services as a condition of probation and wear an electronic tracking device at all times after release from custody and for a specified period of time. The required period is a lifetime for Tier III offenders (those who commit the most serious crimes) and certain re-offenders whose victims were minors. The court may also specify, as a condition of probation, geographic locations to which the defendant may not travel. The bills differ slightly in the category of offenders to which they apply.

*Life Sentence - Parole*

Currently, a Maryland inmate serving a term of life imprisonment may only be paroled with the approval of the Governor. **SB 172**, which remains in a Senate committee, repeals this provision. The companion bill, **HB 302**, as amended and given preliminary approval by the House, now provides that if the Patuxent Institution Board of Review or the Maryland Parole Commission decides to grant parole to an eligible prisoner sentenced to life imprisonment who has served 25 years without application of diminution credits, and the Governor does not transmit a written disapproval of the decision within 90 days, the grant of parole becomes effective.

*Juvenile Services*

The Senate passed **SB 62** that, as amended, authorizes the Maryland State Department of Education (MSDE) and the Department of Juvenile Services (DJS) to share education records of juveniles receiving MSDE

educational services in a DJS facility when necessary to ensure the appropriate delivery of services for juvenile services educational programs.

*Failed Legislation – Synthetic Marijuana*

**SB 171** would have designated several chemical compounds known as synthetic cannabinoids as Schedule I controlled dangerous substances (the companion bill, **HB 189**, also failed.).

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## ECONOMIC AND BUSINESS ISSUES

*Public Utilities*

The Maryland Offshore Wind Energy Act bills (**SB 861/HB 1054**) are Administration proposals that require the Public Service Commission (PSC) to order certain electric companies to enter into long-term power purchasing agreements (PPAs) with at least one “qualified offshore wind generator,” defined as a wind energy generation facility that is located in the Atlantic Ocean; is at least 10 nautical miles from the shoreline; or is within federal waters adjoining another state within the Pennsylvania-New Jersey-Maryland Interconnection region. Under the measures, the PSC must establish surcharges equitable among customers to cover costs of establishing the purchase agreements. The PSC may implement a special assessment of up to \$3 million between fiscal 2011 and 2013.

A 500-MW offshore wind project could, among other things, supply enough electricity to power 79% of all the homes on the Eastern Shore of Maryland or more than half the homes in Baltimore City; provide price stability; reduce emissions of carbon dioxide by 945,000 tons each year; generate enough clean energy to satisfy between 10% and 15% of Maryland’s 2022 renewable energy goals; and have a significant economic impact.

Another alternative energy bill, **HB 658**, enables the PSC to authorize utilities to operate as sustainable energy utilities (SEUs) to provide their energy products directly to residential property owners via a qualified contract. An SEU may contract with individuals or groups owning residential property to install sustainable energy products, such as solar panels or geothermal heating systems. Qualified contracts tie the investments to the property to be recorded in land records and are regulated by the PSC to ensure that savings to the property owner outweigh the cost of the contract.

**SB 271/HB 275** passed in their chambers of origin with amendments. These bills add a closed conduit hydroelectric generating facility to the list of facilities eligible for net energy metering. The bills also change the definition of “closed conduit hydroelectric

generating facility” to one that generates electricity within existing piping or limited adjacent piping of a potable water supply system, is owned or operated by a municipality or a public water authority, and is designed to produce less energy than is consumed to operate the water supply system.

#### *Economic Development*

Bills creating a Green Business Incentive Zone Program ([SB 646/HB 795](#)) grant property tax credits for real property improvements and income tax credits for wages paid to qualified employees to certain green businesses, those primarily engaged in technologies or services related to renewable energy, energy storage, and energy efficiency and conservation. The Department of Business and Economic Development may designate up to six green business incentive zones in a calendar year.

#### *Labor and Employment*

This week, a Senate committee listened to testimony on raising the State minimum wage. [SB 716](#) requires employers to set the minimum wage at \$8.25 per hour as of July 1, 2011, and increases the rate in subsequent years to \$9.00 (effective July 1, 2012) and \$9.75 (effective July 1, 2013). The rate would increase if the federal minimum wage is set at a higher rate. Furthermore, the bill expands the Maryland Wage and Hour Law to include additional industries and classes of workers, changes overtime laws for certain industries, and reduces the tip credit to 25%, down from 50%. The crossfiled bill is [HB 988](#).

[SB 660](#) prohibits employers from employing or refusing to employ an individual based on membership or nonmembership in a union, prohibits employers from requiring individuals to refrain from joining a union or requiring individuals to join a union, and prohibits employers from requiring employees to pay dues or other charges to a union. [HB 743](#) is a related measure.

#### *Alcoholic Beverage Licensing*

Crossfiled bills [SB 248/HB 234](#) repeal the State’s direct wine *seller’s* permit and establish a direct wine *shipper’s* permit, allowing persons licensed as wine shippers to ship wine directly to certain consumers. Similar legislation has been introduced for the last three legislative sessions but has failed. A related measure, [HB 1175](#), is also being considered.

Several bills allowing persons in restaurants and/or clubs to consume wine that was not purchased on the licensed premises are on the legislative agenda. The bills allow these licensed establishments to charge customers a fee, commonly known as a corkage fee, for permitting the consumption of wine with a meal. Bills affect Baltimore

City ([SB 614/HB 114](#)) and the following counties: Baltimore ([SB 276](#)), Frederick ([SB 166/HB 150](#)), Montgomery ([HB 544](#)), and Prince George’s ([HB 1098](#)).

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## EDUCATION

#### *Concussion Awareness in Student Athletes*

[HB 1](#) addresses concussion awareness in student athletes by requiring local boards of education and the Maryland Public Secondary Schools Athletic Association to establish guidelines for the evaluation and management of head injuries in youth athletes. A similar bill, [HB 858](#), mandates that Maryland State Department of Education provide concussion awareness to coaches, school personnel, student athletes, and parents in collaboration with the Department of Health and Mental Hygiene, local boards of education, and others. Both bills expect concussion awareness to address the nature and risk of head injury, the criteria for removal and return to the game of a student who has sustained a head injury, and the risks of not reporting a head injury and returning the youth to play.

#### *Task Force to Study the Creation of a Maryland Center for School Safety*

With approval by the House, [HB 79](#) now goes to the Senate. The bill requires the Task Force to establish a clearinghouse for information and materials; develop a training program; collaborate with the State Department of Education to establish a statewide data collection system; develop security criteria to consider in the design of new school construction; create model interagency agreements to address discipline and safety issues; and develop a model safety and security audit procedure. The companion bill is [SB 772](#).

#### *Tuition Charges - Maryland High School Students*

A Senate committee significantly amended and favorably reported [SB 167](#) to exempt specified individuals who attended and graduated from Maryland high schools from paying out-of-state tuition at a community college. These persons are also exempt from paying out-of-state tuition at a public institution of higher education in Maryland if they first attend community college in the State and are awarded an associate’s degree or obtain 60 credit hours. Additional qualifications for the exemption require that the individual must:

- have attended a secondary school in the State for at least two years;
- have graduated from a high school in the State or received the equivalent of a high school diploma in the State;

- register as an entering student at a community college within four years of graduating from high school;
- register at a public four-year institution within four years of obtaining an associate's degree or 60 credits; and
- provide documentation that the individual or the individual's parent or guardian has had Maryland income tax withheld during the year prior to high school graduation and annually before, between, and during attendance at community college and/or a public institution of higher education.

An individual who qualifies for the exemption and is not a permanent resident must also provide an affidavit stating that the individual will file an application to become a permanent resident within 30 days after becoming eligible to do so. Documented immigrants who are in the country on student visas do not qualify for the exemption, but otherwise the exemption applies regardless of residency status. The governing board of each public institution of higher education must adopt policies to implement the bill. [HB 470](#), the original companion measure, is scheduled for House committee consideration next week.

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## **ENVIRONMENT, NATURAL RESOURCES, AND AGRICULTURE**

### *Oysters and Fishing*

[HB 273](#) has moved to the Senate. The bill revokes a license to catch oysters for anyone caught taking oysters unlawfully and creates a citation, hearing, license revocation, and appeals process. The companion measure, [SB 159](#), is in the House.

Bills heard by a committee this week include:

- [SB 538](#) that prohibits the Department of Natural Resources (DNR) from designating more than 25% of the available oyster habitat in the waters of the State as oyster sanctuaries;
- [SB 635](#) that provides for the revocation of a license for the unlawful taking of striped bass or crabs and requires adoption of regulations that establish grounds for the revocation and an appeals process. The crossfiled bill is [HB 1154](#);
- [SB 655](#) that establishes enhanced penalties for a person who commits a commercial fisheries violation while the person's commercial fishing license or authorization is suspended or revoked or who engages in commercial fishing activities

without an appropriate license or authorization. The crossfiled bill is [HB 1225](#); and

- [HB 966](#) that requires the Department of the Environment (MDE) to use the most reliable available test to detect *Escherichia coli* (E. coli) in determining whether to restrict, or lift any restrictions on, an area for the catching or storing of shellfish.

### *Marcellus Shale Formation*

Testimony has been given on bills that address the impact of the hydraulic fracturing process proposed for natural gas exploration and production in the Marcellus Shale formation that underlies parts of Western Maryland. [SB 422/HB 411](#) require MDE to submit regulations related to the environmental impact of natural gas exploration and production by December 31, 2011. [SB 634/HB 852](#) more specifically identify permitting, monitoring, and coordination requirements.

### *Phosphorus*

Several bills reduce the amount of phosphorus in commercial dishwashing detergent. [HB 53](#), which as amended extends the date after which detergent used in commercial dishwashers may not contain more than 0.5% phosphorus from July 1, 2010, to until January 1, 2013, is in the Senate. [SB 320](#) and [SB 751](#), which as amended create a similar extension and a fine for a second violation, respectively, have received the Senate's preliminary approval.

### *Septic and Sewage*

[SB 372](#) has received preliminary approval by the Senate. As amended, the bill requires MDE to evaluate and rank nitrogen removal technologies for septic systems and advise local governments and citizens regarding nitrogen reduction technologies for septic systems that are approved as eligible for Bay Restoration Fund assistance. The crossfiled bill is [HB 347](#).

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## **FISCAL MATTERS**

### *Budget Reconciliation and Financing Act of 2011*

Early this week, the Budget Reconciliation and Financing Act (BRFA), [HB 72](#), was the subject of a packed and lengthy committee hearing. The BRFA makes changes to existing law to reduce required expenditures and transfers funds to the General Fund to balance the State's operating budget ([HB 70](#)). The BRFA hearing was also coupled with the presentation of the fiscal plan to balance the budget by the minority members of the General Assembly. Their proposals reduce the fiscal 2012 budget by an additional \$621

million. The reductions eliminate the legislative scholarship program for a savings of \$11.7 million in fiscal 2012, eliminate the Geographic Cost of Education Index for a savings of \$120.3 million, reduce Medicaid error rates and eliminate non-emergency outpatient hospital visits for a savings of \$50 million, eliminate the proposed one-time \$750 State employee bonus for a savings of \$39.4 million, and mandate a 2% across the board reduction in State agency expenses. Additionally, the proposals include a repeal of the sales and corporate income tax increases of 2007, but there are no transfers of money from the Bay Restoration Fund and the Transportation Trust Fund.

#### *Motor Vehicle Fuel Taxes*

**HB 1059** increases the State motor fuel tax rate for all fuels, except aviation gasoline and turbine fuel, by 20 cents per gallon. After an initial increase of 10 cents per gallon, the remaining rate increase is phased in semi-annually by 2 cents per gallon over two years. In fiscal 2012 and 2013, the bill requires a transfer of motor fuel tax revenues to the general fund in an amount equal to the revenue generated from the 10 cents per gallon tax increase. The bill takes effect July 1, 2011.

Companion bills, **SB 714/HB 1001**, beginning July 1, 2011, increase the State motor fuel tax rate for all fuels, except aviation gasoline and turbine fuel, by 10 cents per gallon. Under the bills, beginning July 1, 2013, the motor fuel tax rate is effective for one year and every subsequent year, on July 1, the motor fuel tax rate must be increased in accordance with the annual percentage growth in the construction cost index, up to one cent per gallon annually; or maintained at its current level if there is no increase in the annual percentage growth in the construction cost index. Beginning July 1, 2011, State vehicle registration fees increase by 50% for all classes of vehicles.

#### *Transportation Trust Fund*

In addition to changing the motor vehicle fuel tax rates, **SB 714/HB 1001** also amend the Maryland Constitution to include the Transportation Trust Fund (TTF) and establish rules for its operation and funding. The bill places constitutional restrictions on transfers from TTF and use of TTF monies. It states that constitutional requirements for a majority approval of the amendment in a local jurisdiction do not apply and calls for the amendment to be submitted for a statewide vote at the next general election to be held in November 2012. The bill takes effect July 1, 2011, except for specified TTF provisions that are subject to constitutional amendment. Other proposed constitutional amendments to place constitutional restrictions on transfers from the TTF but

do not increase taxes (**HB 591** and **SB 677**) have hearings next week.

#### *Estate Tax - Exclusion of Qualified Agricultural Property*

**SB 764/HB 721** exempt from the State estate tax up to \$5 million of qualified agricultural property. To qualify for the exemption, the property must pass from a decedent to a qualified recipient who enters into an agreement to use the property for farming purposes after the decedent's death. In addition, the bills specify that the estate tax imposed on qualified agricultural property included in an estate cannot exceed 5% of the value of the qualified agricultural property that exceeds \$5 million. The bills take effect July 1, 2011, and apply to deaths that occur after December 31, 2010.

#### *Disciplinary Fund of the Attorney Grievance Commission*

**HB 765** requires any unspent portions of the Disciplinary Fund to revert to the general fund and requires the Commission to submit its annual budget to the Department of Budget and Management.

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## **HEALTH CARE AND HEALTH INSURANCE**

### *Medical Marijuana*

Companion measures (**SB 308/HB 291**) heard this week authorize the use of marijuana for medical purposes under specified circumstances. The bills set up a system whereby the Department of Health and Mental Hygiene (DHMH) must license growers and dispensaries and must select the fewest number of authorized growers necessary to provide a supply of marijuana to meet the anticipated demand of qualifying patients.

The legislation makes marijuana a Schedule II, rather than a Schedule I, controlled dangerous substance and also allows doctors to recommend marijuana to certain patients. DHMH must establish a registry of qualifying patients and issue a registry identification card with a photograph to a qualifying patient who submits any required application or renewal fee (which may be based on a sliding scale) and other information to DHMH.

Among other requirements, the information must include written certification from a physician with whom the patient has a *bona fide* physician-patient relationship and whose treatment of the patient is not limited to authorization to use medical marijuana or consultation for that purpose. The certification must also include a statement by the physician that the potential benefits of medical marijuana use likely outweigh the risks to the patient and that the patient has a debilitating medical condition for which recognized drugs or treatments

would be ineffective or for which other treatment options have more side effects.

#### *Definition of Abuse and Required Guidelines*

**SB 384/HB 346** alter the definition of “abuse” for purposes of certain reporting requirements related to State facilities and residential centers. “Abuse” does not, for those purposes, include the performance of appropriate actions taken by an employee of a State facility or residential center to protect the employee or other individuals in the facility or center that involve the least amount of restriction required to provide the necessary protection. In consultation with employee organizations, DHMH must develop guidelines regarding appropriate methods of protection and restraint to be used by employees of a facility.

#### *Telemedicine*

Recently, a Senate committee heard testimony on legislative proposals related to telemedicine, which is the use of medical information exchanged from one site to another via electronic communications to improve a patient’s health status. **SB 298** requires insurers, nonprofit health service plans, and health maintenance organizations (carriers) to reimburse licensed health care providers for a covered service rendered by telemedicine at the same rate established by the carrier for the same or a substantially similar service that is rendered in person. A similar proposal, **SB 744**, requires carriers to provide coverage for a “telemedicine service” and to reimburse a health care provider for a “telemedicine service” under specified circumstances.

Another bill, **SB 406**, establishes a Task Force to Study the Use of Telemedicine in Medically Underserved Populations and Areas and requires the Task Force to submit a report to the Governor and certain legislative committees. Two bills addressing telemedicine were reported unfavorably out of committee early this week - **HB 14** (failed) and **HB 16** (failed).

#### *Biennial Cancer Study*

**SB 574** requires the Biennial Cancer Study conducted by DHMH to measure possible environmental causes (including chemical agents and other toxins found in the air, water, and soil) of cancer and requires reporting of the results to the Governor and the General Assembly.

#### *Abortion*

A Senate committee took testimony on **SB 505** that alters the definition of “ambulatory surgical facility” as it pertains to licensing to include any entity that provides abortion through the use of surgical services. The bill further alters the definition of “surgical services” to include the use of two types of instruments: uterine

curettes and manual vacuum aspirator curettes introduced into the uterus for the purpose of abortion. In current law, doctors’ offices and freestanding health care clinics, where abortions are performed, are not licensed by DHMH, although the State does license “freestanding ambulatory care facilities,” which include ambulatory surgical facilities, freestanding endoscopy facilities, freestanding facilities utilizing major medical equipment, kidney dialysis centers, and freestanding birthing centers. Fifteen states currently require abortion providers to either be licensed as ambulatory surgical centers or meet similar requirements. A similar bill, **HB 23**, is slated for a hearing by a House committee next week.

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## STATE GOVERNMENT

#### *Electronic Records*

The Maryland Public Information Act grants the public a broad right of access without unnecessary cost or delay to records that are in the possession of State and local government agencies. Custodians have a responsibility to provide such access in copies, printouts, or photographs unless the requested records fall within one of the exceptions in the law.

**SB 740/HB 37** expand access to public records by requiring a custodian to provide a copy in a searchable and analyzable electronic format under specified circumstances. The custodian is authorized to remove metadata from an electronic document before providing it to an applicant, and a custodian may charge an applicant a reasonable fee for the making of an electronic copy. With the advent of new screen reading software for computers and handheld devices, the bill’s provisions give greater access to public records to individuals who are blind or with low vision. In 2009, an estimated 96,200 State residents were either blind or had serious difficulty seeing even when wearing glasses.

#### *State Pensions and Retirement*

A number of bills address the current system whereby the State pays the full share of the cost of teacher pensions. Among the measures that have been discussed at committee hearings:

- **SB 628** requires local school boards, community colleges, and libraries to pay one-half of the total retirement costs for their employees. Additional State education aid is provided on a wealth equalized basis to offset one-half of the cost to be paid by local school boards but not other local employers. This bill also increases eligibility requirements for retiree health care benefits provided to retired State employees and restructures pension benefits for

current and future members of the State Retirement and Pension System;

- [SB 629](#) requires local school systems, community colleges, and libraries to pay a portion of employer pension costs for their employees who are members of the Teachers' Retirement System or Teachers' Pension System beginning July 1, 2012. The local share of employer pension costs for an employee is the portion of total employer costs that is based on the amount of an employee's salary that exceeds the median annual salary; and
- [SB 735](#) closes all of the State's defined benefit pension plans to new State employees and teachers hired after June 30, 2011, except for the Governor's and Legislative Pension Plans. State employees and teachers hired on or after July 1, 2011, are members of the Optional Retirement Program, a defined contribution plan, as a condition of their employment.

A number of other measures related to teacher pensions are scheduled for hearings next week, including [HB 1061](#) that proposes an amendment to the Maryland Constitution to prohibit the General Assembly from requiring any political subdivision of the State to pay the employer contributions on behalf of any employee of the political subdivision who is a member of the Teachers' Retirement System or Teachers' Pension System.

Among the bills that have moved from the House to the Senate related to other aspects of State pensions and retirement are:

- [HB 176](#) that reduces from nine to five the number of years that a retiree of the Employees' Retirement System, Employees' Pension System, Teachers' Retirement System, or Teachers' Pension System must wait in order to be exempt from a reemployment earnings limitation if the retiree is hired by the individual's last employer prior to retirement;
- [HB 335](#) that requires that the 10 years of service in the State Retirement and Pension System that are necessary to claim and be granted military service credit for prior military service be earned through employment as a member of a State system. The bill is not expected to affect retirement benefits for many members, but instead is designed to prevent future abuse. [SB 356](#) is the companion measure; and
- [HB 338](#) that authorizes the State Retirement Agency to post the names of former members, retirees, or beneficiaries of former members or retirees of the State Retirement and Pension System and the last

participating employer of the former members or retirees on the State Retirement Agency's Web site if the former members, retirees, or beneficiaries are entitled to unclaimed money from the State Retirement and Pension System. [SB 359](#), the companion measure, has received a favorable Senate committee vote.

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## TRANSPORTATION

### *Texting While Driving*

[HB 196](#) passed the House with the addition of several sponsors. It prohibits a driver from reading any text message while in the travel lane of a roadway, whether or not the car is in motion. A companion bill, [SB 424](#), passed second reading in the Senate without amendment, although floor amendments were offered.

### *Drunken Driving*

Companion bills [SB 483/HB 574](#) provide that a judge or jury may determine that a drunken driver with a blood alcohol content of 0.15 or more who causes injury or death is acting with malice, and may be liable for punitive damages. If the driver has a blood alcohol content of .08 or more but is driving under a suspended or revoked license, the same penalty may apply.

### *Transportation Procurement and Holocaust Deportations*

Companion bills [SB 479/HB 520](#) require all bidders on a procurement contract for MARC train service to disclose whether they have any records on the deportation or the belongings of prisoners sent to Nazi death camps between January 1, 1942, and December 31, 1944. One potential bidder is a subsidiary of the French National Railroad SNCF, which deported prisoners in cattle cars from France during World War II. Bids are expected to be sought for MARC train service on the Camden and Brunswick Lines, which is currently provided by CSX Transportation.

### *Chesapeake Bay Bridge*

A hearing was conducted recently on [SB 520](#) to require an environmental impact study for a third bridge crossing the Chesapeake Bay. Locations would be either adjacent to the existing dual bridges between Anne Arundel County and Kent Island, or at another location chosen by the Department of Transportation. One report estimates that by 2025, traffic on the existing dual bridge will have increased by 41% over 2001 levels. Similar bills introduced in 2010 and 2009 received unfavorable committee reports.



# The Legislative Wrap-Up

Library and Information Services, Department of Legislative Services

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Issue 11-9

March 7-11, 2011

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(Click on Issue above for previous Wrap-Ups)

## FIRST CITIZEN AWARD

Charles Carroll of Carrollton (1737-1832) was a member of the Maryland Senate from 1777 to 1800 and served as its President from 1782 to 1783. A commemorative medal was commissioned in 1826 to celebrate Carroll's 90th birthday. A seal of that medal is used by the President of the Senate on the First Citizen Award, given annually to Marylanders who have been dedicated and effective participants in the process of making government work for the benefit of all. This year, the President bestowed the First Citizen Award on Senator Brian E. Frosh and Senator Thomas M. "Mac" Middleton. Each honoree possesses a distinguished legislative career.

Senator Frosh (District 16, Montgomery County) served in the House of Delegates from 1987 to 1995 and then became a member of the Maryland Senate in 1995. He has been Chair of the Senate Judicial Proceedings Committee since 2003. Among other interests, Senator Frosh is known for his devotion to environmental causes and for his dedication to the improvement of Maryland's judicial system. He has been called "one of the great gentlemen of Maryland politics."

Senator Middleton (District 28, Charles County) began his service in the Senate in 1995 and has been Chair of the Senate Finance Committee since 2002. Senator Middleton is a champion of affordable health care and for the eradication of racism. He is also a major supporter of increased voter activism as a means to promote democratic government.

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## COURTS AND CIVIL PROCEEDINGS

### *Same Sex Marriages*

The Civil Marriage Protection Act ([SB 116](#)) received a favorable committee report with no amendments and passed a preliminary floor vote in the House this week, after all proposed floor amendments were defeated. Two days later, after extensive and emotional floor debate and two more defeated amendments on third reading, the bill was recommitted to committee. The bill provides that only a marriage between two individuals who are not otherwise prohibited from marrying is valid in

Maryland. Religious entities may not be required to provide services, accommodations, advantages, facilities, goods, or privileges to an individual if the request to do so is related to actions that violate the entities' religious beliefs, and fraternal benefit societies that are operated, supervised, or controlled by a religious organization may not be required to admit an individual as a member or to provide insurance benefits to an individual if that would violate the societies' religious beliefs.

### *Divorce Actions*

Requirements for a divorce based on the grounds of separation are changed under [SB 139](#) as it was amended and passed by the Senate. The bill reduces the period of time the parties in the divorce action must have lived separate and apart without cohabitation and without interruption before filing for absolute divorce from two years to 12 months and repeals existing law concerning divorce on the grounds of voluntary separation.

[HB 770](#) (failed) would have authorized a court to assign ownership of a pet when there is an ownership dispute during the granting of an annulment or a divorce.

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## CRIMES, CORRECTIONS, AND PUBLIC SAFETY

### *Possession of Guns*

A House committee heard testimony this week on gun legislation, some with similar or companion bills that have already been heard before a Senate committee. Other measures receiving testimony at the hearing:

- repeal the requirement that the Secretary of State Police find that a person has a good and substantial reason to wear, carry, or transport a handgun before issuing a handgun permit to the person ([HB 343](#));
- establish restrictions on individuals who have been treated within the previous five years for certain mental disorders with regard to firearms dealer's licenses and the purchase and possession of firearms. These individuals require a physician's certification that they are capable of possessing a regulated

firearm without undue danger to themselves or others ([HB 730](#)); and

- prohibit a person from wearing, carrying, or transporting a handgun, whether concealed or open, on property of an institution of higher education where postsecondary courses are conducted or in a hospital facility ([HB 803](#)).

#### *Life Imprisonment - Parole Approval*

The House passed [HB 302](#), which, as amended, provides that if the Patuxent Institution Board of Review or the Maryland Parole Commission decides to grant parole to an eligible prisoner sentenced to life imprisonment who has served 25 years without application of diminution credits, and the Governor does not transmit a written disapproval of the decision within 90 days, the grant of parole becomes effective.

#### *Human Trafficking*

The Senate passed [SB 247](#), which authorizes State or local law enforcement to seize property in connection with a violation of the human trafficking law and to establish the Anti-Human Trafficking Fund with the proceeds from the sale of the property. Also, the crime of human trafficking is expanded by prohibiting a person from knowingly recruiting, harboring, transporting, providing, or obtaining a person for labor or services and subjecting the person to involuntary servitude or debt bondage through force, fraud, or coercion.

Also approved in the Senate, [SB 299](#) adds human trafficking to the list of crimes for which evidence may be gathered during a criminal investigation through the interception of oral, wire, or electronic communications.

#### *Animal Welfare*

Under [HB 339](#), passed by the House this week, a Task Force on the Establishment of a Statewide Spay/Neuter Fund will review data on successful local spay/neuter programs and the unmet need for these services. The task force will also make recommendations regarding the establishment of a spay/neuter fund that best meets the needs of the State.

The House also passed an amended [HB 227](#), which authorizes a court, as a condition of probation, to prohibit a defendant convicted of aggravated cruelty to an animal or abuse or neglect of an animal from owning, possessing, or residing with an animal.

## **ECONOMIC AND BUSINESS ISSUES**

#### *Potomac Electric Power Company (Pepco)*

[HB 1110](#) requires the Public Service Commission (PSC) to initiate a proceeding to determine whether Pepco has abandoned its franchise as an electric company in the State. Under the bill, by December 1, 2011, the PSC must determine whether Pepco has met certain standards of service and whether it is operating in a manner consistent with public convenience and necessity. If the PSC determines that Pepco has abandoned its franchise, the PSC must immediately initiate a proceeding to transfer the franchise to another public service company.

#### *Energy Benchmarking and Disclosure – State Buildings*

Under [SB 622](#), energy and gas companies are required to maintain energy consumption records for nonresidential retail customers and, if permitted by the customers, to upload the records to the U.S. Environmental Protection Agency's (EPA) online Portfolio Manager, an energy management tool. Also, State buildings of more than 10,000 square feet must be "benchmarked" annually by the Department of General Services. "Benchmark" means to obtain energy statistics for structures comparable to a particular structure and, if applicable, Energy Star ratings, using the EPA Portfolio Manager. The benchmarking information is to be made available to the public via the Maryland Energy Administration.

#### *Alternative Energy Sources*

Bills in various stages of the legislative process include proposals regarding solar renewable energy credits ([SB 715/HB 1123](#) and [SB 717/HB 933](#)). Other measures ([SB 690/HB 1121](#)) alter the renewable portfolio standard to include waste-to-energy as a Tier 1 renewable resource rather than a Tier 2 renewable resource. Bills that alter the net energy metering program include [SB 380/HB 860](#). Additionally, there is legislation ([SB 881/HB 1227](#)) to expand the definition of "extraordinary economic development opportunity" for the purposes of the Economic Development Opportunities Program that is aimed at maximizing economic opportunities in the State. The bills add the attraction of a new wind turbine manufacturing facility or expansion of an existing private sector enterprise, including wind turbine manufacturing, to the list of eligible projects for funding.

#### *Telephone Companies*

[SB 718/HB 529](#) allow a telephone company to require its customers to opt-in to receive a copy of a telephone directory. The bills do not apply to advertisement-based business directories distributed by or on behalf of a telephone company. The House bill passed this week with added language that requires a telephone company

to provide notice to customers if the company elects not to deliver a telephone directory to each customer and requires a company to deliver a requested print telephone directory to a customer at no cost to the customer.

[SB 619](#) (failed) would have required the PSC to require telephone companies to conduct assessments of telephone lines every three years to study maintenance, security, and reliability issues.

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## EDUCATION

### *Nutrition Information - School Lunches*

[HB 1062](#) requires each public school, beginning in the 2011-2012 school year, to list the number of calories contained in a menu item next to the item on a meal menu published by the school. Montgomery County Public Schools currently show calorie count information on school menus, and several counties post calorie and nutrient information on their websites.

### *Higher Education - Tuition Charges - Maryland High School Students*

[SB 167](#), which exempts certain undocumented students who attended a Maryland high school from paying nonresident tuition at institutions of higher education, passed second reading after much debate on the Senate floor. Among amendments discussed previously, the bill in its current version has several new provisions, including:

- ensuring that certain nonresidents would be exempt from paying out-of-county rates at a community college in the county in which they graduated from secondary school;
- increasing the number of years a nonresident must have attended a public high school in the State in order to qualify for the exemption from two years to three; and
- requiring an annual report that will indicate the number of students admitted to a higher education facility who qualify for resident tuition under this legislation.

A House committee gathered public testimony on the companion bill, [HB 470](#), this week.

### *Maintenance of Effort (MOE) - Penalty*

[HB 869](#) delays the penalty for a county's failure to meet the public schools MOE requirement until the fiscal year after county funding is below the MOE amount. This avoids simultaneous reductions in State and county funding for local school systems and gives the systems

an additional year to prepare for reductions in State aid resulting from MOE penalties. The bill also prohibits the imposition of a penalty for failure to meet MOE in fiscal 2011.

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## ENVIRONMENT, NATURAL RESOURCES, AND AGRICULTURE

### *Septic and Sewage*

Bills that require the Department of the Environment to evaluate and rank nitrogen removal technologies for septic systems and advise local governments and citizens regarding nitrogen reduction technologies for septic systems that are approved as eligible for Bay Restoration Fund (BRF) assistance have moved to the opposite chambers. [HB 347](#), as amended, requires the cost of operating the system to be included in the evaluation and the evaluation to be posted on a webpage. [SB 372](#) requires the cost of operation to be included.

Testimony was heard this week on [SB 846/HB 1107](#), which, among other provisions, prohibit State or local authorities from approving a residential subdivision plan of five or more lots that would use individual septic systems.

### *Lawn Fertilizer*

Bills that reduce the amount of nutrients from lawn fertilizer that reaches waters of the State were discussed in committees this week. [SB 487/HB 573](#) establish nitrogen and phosphorus content limits, application restrictions, and certification and labeling requirements. [SB 544/HB 687](#) require the inclusion of at least 30% slow release nitrogen in fertilizer for use on established lawns and require specific labeling and public notices. [SB 546/HB 706](#) expand existing restrictions on the use of phosphorus in fertilizer, prohibit its use on established lawns, and require similar labeling and public notice.

### *Disposable Bags*

[SB 602/HB 1034](#) require stores to collect a 5 cent fee for each disposable bag provided to a customer. After covering the costs of operating the program and public awareness, fee revenue will go to the Chesapeake Bay Trust. [SB 721/HB 661](#) authorize Prince George's County to impose a fee for disposable plastic bags, and [HB 341](#) requires stores to establish an at-store plastic carryout bag recycling program.

## FINANCIAL INSTITUTIONS AND COMMERCIAL LAW

### *Lend Local Act of 2011*

**SB 547/HB 619**, heard by committees in both the Senate and House this week, essentially codify current practice by requiring the State Treasurer to consider whether a financial institution is incorporated under the laws of the State or operating in the State with total assets of less than \$5.0 billion when designating a financial institution for banking services or as a depository for the State.

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## FISCAL MATTERS

### *Budget and Bond Bills*

The House Appropriations Committee and Senate Budget and Tax Committee have completed their operating budget hearings on the Budget Bill, **HB 70**. The House committee will make its decisions concerning reductions and other amendments to the bill next week, and then it will be reported to the full House for consideration on March 21.

The House Appropriations Committee has also completed its hearings on **HB 71**, the Maryland Consolidated Capital Bond Loan of 2011. This bill will be reported to the full House after the Budget Bill has been reported to the House floor. Under the Maryland Constitution, the General Assembly may not pass the capital budget bill or any other supplemental budget bill until after it has passed the Budget Bill. Committee hearings on individual bond bills are scheduled for Saturday, March 12.

### *Building Opportunities for All Students and Teachers (BOAST) in Maryland Tax Credit*

**SB 315/HB 932** create an income tax credit for 75% of the contributions made by a business or nonprofit organization to an eligible nonprofit organization that either:

- provides scholarships to eligible students or teachers at a nonpublic K-12 school; or
- provides grants to public schools to support innovative educational programs that are not part of the regular academic program in order to achieve the goals of the Bridge to Excellence in Public Schools Act of 2002, or to public school teachers to assist in the cost of certification coursework.

The amount of credits that the Maryland State Department of Education may award in each year may not exceed the amount of money appropriated to a reserve fund established by the bill. The bill takes effect

July 1, 2011, and applies to tax year 2012 and beyond. BOAST legislation has been considered in each session since 2008.

### *Dedicated State Funds Protection Act*

**HB 926** amends the Maryland Constitution to restrict the use of dedicated State funds to the specific purposes that are set forth in law and to prohibit the transfer of dedicated State funds to the general fund. The bill creates exceptions to the prohibition on dedicated State fund transfers but only for specified defense or relief purposes. It calls for the amendment to be on the general election ballot in November 2012.

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## HEALTH CARE AND HEALTH INSURANCE

### *Imaging and Radiation Therapy Services - Accreditation*

Committees heard testimony recently on companion bills (**SB 808/HB 782**) that modify current law exempting a radiologist group practice or an office consisting solely of one or more radiologists from the prohibition on self-referrals for “in-house ancillary services” (*i.e.*, magnetic resonance imaging (MRI), radiation therapy, or computed tomography (CT) scan services). Specifically, the bills extend the exemption’s applicability to instances in which the individual furnishing the services is employed and directly supervised by the referring practitioner or a practitioner in the same group practice during the regular office hours maintained by and in the same building where the practitioner provides services. A health care entity must meet specified national accreditation requirements to be eligible for the exemption. Finally, the bill requires a health care practitioner who makes the referral to disclose to the patient his or her beneficial interest in the entity to which the patient is being referred. If this disclosure is made in a written statement, it must include identifying information for nearby health care entities that are capable of providing the service for which the patient is being referred.

### *Decabrominated Diphenyl Ether (DecaDBE) - Trace Amounts*

Bills concerning DecaDBE have been amended and have crossed over to the opposite chambers. The amendments to **SB 221/HB 54** include an exemption for certain aircraft from the application of a prohibition on the manufacture, lease, sale, or distribution for sale or lease of certain products that contain DecaDBE. **SB 221** was also amended to indicate that the products covered by the bill are considered by “mass of the product as a whole,” while **HB 54** makes reference to the products “by mass,” thus making the bills slightly different. The bills’ provisions allow for trace amounts of DecaDBE in

certain products (0.1%) but do not make any changes to the phase-out dates prescribed in current law.

#### *Autism Spectrum Disorders*

[SB 759/](#)[HB 783](#) require insurers, nonprofit health service plans, and health maintenance organizations to provide coverage for the diagnosis and evidence-based, medically necessary treatment, including applied behavior analysis, of autism spectrum disorders. The bills take effect January 1, 2012 and apply to all policies and contracts issued, delivered, or renewed in the State on or after that date. Similar measures were considered in the 2009 and 2010 sessions.

#### *Dining Out Growth Act of 2011*

[HB 941](#), under consideration by a House committee this week, authorizes a restaurant with an outdoor dining area to allow a patron's dog to accompany the patron in the outdoor dining area during hours designated by the restaurant owner. Additionally, the bill specifies that the restaurant owner must provide written notice to the local health department (LHD) at least 30 days before the owner intends to allow accompanying dogs and must permanently display written notice according to the bill's specifications.

Under the bill's provisions, the Department of Health and Mental Hygiene (DHMH) and the Restaurant Association of Maryland must report the following information by October 1, 2013:

- the number of restaurants that have notified LHDs that dogs will be allowed in outdoor dining areas;
- the number and nature of complaints received by LHDs regarding dogs in outdoor dining areas;
- the number and nature of sanitation issues regarding dogs in outdoor dining areas; and
- increases in the number of patrons at restaurants that allow dogs in outdoor dining areas.

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## **TRANSPORTATION**

#### *Texting While Driving*

The House passed [HB 196](#) that prohibits a driver from reading any text message while in the travel lane of a roadway, whether or not the car is in motion. A companion bill, [SB 424](#), passed in the Senate.

#### *Cell Phone Use*

Late in the week, the House passed [HB 222](#) that changes cell phone use while operating a motor vehicle from a secondary offense to a primary offense. The bill states that a driver in the travel portion of the roadway may not

use the driver's hands to use a handheld telephone other than to initiate or terminate a wireless telephone call or to turn on or to turn off the handheld telephone.

#### *Ignition Interlock Systems*

Testimony was given in committee this week on several measures to expand the State's existing Ignition Interlock System Program ([HB 318](#), [HB 360](#), [SB 803/](#)[HB 1012](#), and [HB 1276](#)). Specifically, [HB 318](#) and [SB 803/](#)[HB 1012](#) require, rather than allow, the Motor Vehicle Administration (MVA) to implement the program for drunk drivers and impose a prison sentence for participants who violate the rules of the program. [SB 803/](#)[HB 1012](#) further require the drunk driver to pay a fee to cover the costs of participation, set a minimum amount of time for participation, and impose participation on some drivers who have had their licenses suspended for refusing to take a blood or breath test. [HB 360](#) and [HB 1276](#) require a drunk driver to participate in the program if ordered to do so by the court, and [HB 1276](#) further authorizes individuals to participate in the program if:

- they seek to regain a license that has been suspended or revoked due to drunken or drugged driving;
- a blood or breath test shows an alcohol concentration of .15 or more;
- they have had a similar conviction within five years; or
- they were under age 21 at the date of a drunken driving violation.

Similar bills have been introduced since 2006 but have not passed.

#### *Drunk Drivers - Licensing*

Bills were under consideration in a House committee this week related to drunk drivers. Under [HB 657](#), the court may require a driver convicted three or more times of drunk or drugged driving to display for five years a yellow license plate carrying the letters "DUI" in red. A related bill, [HB 1069](#), requires the MVA to cancel the driver's license of a repeat drunk or drugged driver. If the driver meets requirements to receive a new driver's license, the license and any subsequent licenses must carry a note that the driver has been convicted for multiple offenses of drunk or drugged driving.

#### *Blood or Breath Testing*

Crossfiled measures [SB 408/](#)[HB 957](#), heard this week, require that a person who is stopped for suspicion of an alcohol- or drug-related driving offense must agree to a blood or breath test if he or she has been stopped for a similar offense in the past and refused the test. The bills

provide that a driver who does not comply is liable for a fine of up to \$1,000 or imprisonment for up to one year, or both.

31, 1944. Companion bill [HB 520](#) remains in a House committee.

*Overtaking and Passing School Buses*

[HB 462](#) allows a county school board to install monitoring cameras on school buses to record the license plates of vehicles that pass the bus illegally. If the monitoring camera records a violation, the owner of the bus must turn over the image to local law enforcement officials. The law enforcement agency may mail either a warning or a citation to the vehicle owner. The person who receives the citation may pay a fine or choose to contest the charge in District Court. Proposed penalties are similar to a parking violation. The Maryland State Department of Education, during a statewide survey in February of this year, reported 7,028 violations in a single day.

*Black and White License Plate*

[HB 697](#), which is awaiting a vote in committee, gives individuals the choice of returning to the old black and white license plate that preceded the current standard issue War of 1812 registration plate, if they are willing to pay a fee set by the MVA to cover the cost of the black and white license plate.

*Driver Licensing for Adults*

[HB 1185](#), to be heard by a committee next week, eases the requirements for responsible adults who are seeking a first-time driver's license. Current law makes no distinction between teenage and adult applicants who have a learner's permit. The proposed legislation would retain the requirement for 30 hours of classroom instruction, 6 hours behind the wheel on a highway, and 3 hours of drug and alcohol education, but for those over age 18 cut the waiting period to 45 days, eliminate the requirement for 60 hours of practice with a licensed driver, and allow the classroom instruction to be completed over the Internet.

*Smoking in Cars*

Under [HB 737](#), heard this week by a committee, a driver with a passenger under age eight may not smoke inside the vehicle and may not allow any other passenger to smoke. A violator is subject to a fine up to \$50.

*Transportation Procurement and Holocaust Deportations*

[SB 479](#), passed by the Senate this week, requires all bidders on a procurement contract for MARC train service to disclose whether they have any records on the deportation or the belongings of prisoners sent to Nazi death camps between January 1, 1942, and December