



The LEGISLATIVE WRAP-UP

February 15-19, 1999

Issue: 99-6

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NEW DELEGATE SWORN IN

On Friday, February 19, William H. Cole IV (D) was sworn in as a member of the House of Delegates to replace Timothy D. Murphy (D) who resigned to become a District Court judge in Baltimore City (District 1). Delegate Cole, representing District 47A, Baltimore City, has been assigned to the Judiciary Committee.

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GREEN BAG APPOINTMENTS

Green Bag appointments, as required by the Maryland Constitution, were submitted to the Senate and the House on Friday, February 19 (although the official day, the 40th calendar day of session, is Sunday, February 21). The Governor's Appointments Secretary delivers the list of gubernatorial appointments in the official Green Bag of Maryland to the President of the Senate at the morning session. 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. Except for this annual presentation ceremony, the Green Bag resides at the State Archives.

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A Senate committee heard testimony this week on **SB 143**, the proposal to increase the cigarette tax rate from \$.36 to \$1.36 per pack over a two-year period. The hearing was preceded by a Monday night rally at the State House in support of the increase. It drew proponents, who testified that the increase would deter teens from smoking, and opponents, including farmers, distributors, and manufacturers, who testified that the high increase would likely harm farmers and encourage bootlegging and other crime. The bill also would add a tax to the wholesale price of other tobacco products, such as cigars, snuff, and chewing tobacco. The proposed State budget for fiscal 2000 includes anticipated revenues from the first \$.50 of increased tax amounts. Revenues from the first year increase of \$.50 are dedicated for the general fund and the State Reserve Fund. Beginning in fiscal 2001, the revenues from the second \$.50 increase are earmarked for school construction projects. The companion bill, **HB 190**, is scheduled for a hearing later in the session. Should this tax increase be reduced or not enacted, the proposed budget would require additional reductions to meet the constitutional requirement for a balanced budget.

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Legislation (**HB 564**) introduced last week would provide a tax break to parents of public and private school K-12 students for educational expenses. Tutors, textbooks, transportation expenses, after school enrichment programs and some camps, music lessons, and some computer equipment are among the expenses eligible for the tax break. The bill does not include tax breaks for enrollment fees or tuition during the regular school day and school year or for religious instruction or textbooks.

Three bills providing tax relief from State income and inheritance taxes for restitution payments made to Holocaust victims, distributions from Swiss banks for heirless and unclaimed assets deposited in Swiss banks (dormant accounts), recovered looted assets, and other payments relating to Holocaust losses are moving through the process. **SB 229** passed the Senate this week with technical

amendments. Its companion bill, **HB 27**, and a similar bill, **HB 177**, were heard in the House this week. **HB 177** also excludes from taxes interest on the proceeds receivable from insurance policies issued to Holocaust victims. Provisions of the bill authorize the Maryland Insurance Commissioner to use any power available to the State to compel holding company systems that include insurers of Holocaust victims to submit reports and comply with the recovery of these policies.

CONSUMER AFFAIRS

Several bills have been introduced regarding regulation of the telemarketing industry. One bill, **SB 496**, would establish a database of residential phone subscribers who object to receiving telephone solicitations and require telemarketers to purchase the database and prohibit them from soliciting those listed. **HB 666** would limit telephone solicitation to the period between 8:00 a.m. and 6:00 p.m. Monday through Friday, and limit the number of calls a solicitor can make to the same residential number on a single day. In an effort to suppress fraudulent telemarketing activity, **HB 873** would require telemarketers to register, for a fee, with the Division of Consumer Protection, to obtain a surety bond, and to adhere to strict disclosure requirements during telephone solicitations and in contracts.

COURTS

HB 551 is the fourth attempt in four years to replace Maryland's contributory negligence standard with a comparative fault standard in civil suits. Currently, recovery of damages by accident victims from other responsible parties is prohibited if the victim contributed in any way to the accident. The proposed standard would allow recovery in such situations if the victim's negligence is less than the combined negligence of the parties being sued. The court would have the authority to reduce damages by the percentage of negligence attributable to the plaintiff. Forty-six states have already adopted the comparative fault standard.

CRIMINAL MATTERS AND CORRECTIONS

HB 90, heard last week in committee, would create the crime of identity theft. Assuming another person's identity with the intent to defraud or avoid criminal prosecution would be a misdemeanor, with a maximum penalty of a \$10,000 fine and one year in jail. Three other bills (**HB 334**, **SB 244**, and **SB 525**) would prohibit obtaining or using another's personal identification information, without the individual's consent, for fraudulent purposes.

Assisted suicide would be a felony under the provisions of **HB 496/SB 319**, with a maximum penalty of a \$10,000 fine and three years in jail. The bill would prohibit anyone, including doctors and other health care professionals, from aiding or contributing to a suicide. At last week's Senate hearing, senior citizens voiced concerns that the measure would forbid acts of compassion, eliminate terminally ill patients' option to end life peacefully and painlessly, and violate the doctor - patient relationship. Supporters of the bill argued that legalized assisted suicide could make it easier for depressed disabled people to take their own lives and would provide a "slippery slope" for doctors who would have too much control over who should die and who should not.

The House has passed two bills that would create new misdemeanor crimes. Designed to combat the problem of "date rape" drugs, **HB 103** would prohibit a person from administering a drug to another person without that person's knowledge with the intent to commit a violent crime or sexual offense against the person. Violators could receive a penalty of up to a \$2,500 fine and a year in jail. **HB 95** would make it a crime to set up a camera to surreptitiously observe people in their private residences under some conditions, with a maximum penalty of a \$1,000 fine and six months in jail. The bill would also prohibit visual surveillance of a person in a rest room, bedroom, or dressing room in a place of public use or accommodation, with the same penalty.

Bills designed to improve conditions for correctional officers have been scheduled for March hearings. **HB 232/SB 377** would outlaw the "corrections cocktail," a spray of body fluids aimed by inmates at correctional officers. A prisoner who commits this misdemeanor could be punished by up to ten more years behind bars and a \$1,000 fine. **HB 680** would give wardens at State prisons and local jails the authority to ban pornographic materials from their institutions. The intent is to reduce sexual tension between inmates and employees, to reduce violent and sexual crimes in prisons, and to provide a more acceptable working environment for female correctional officers.

The Senate passed **SB 111** to allow courts to increase by 50% the maximum sentence of criminals who commit a crime of violence against people 65 years of age or older.

ECONOMIC MATTERS

In the Glendening Administration's package of proposed legislation, two bills seek to make the State's business climate more attractive by strengthening corporation and real estate investment trust laws in the area of unsolicited takeovers (**SB 169/HB 180**). Maryland-based entities would be authorized to include provisions in their articles of incorporation or declarations of trusts to allow their boards of directors or trustees to consider the effect of a potential takeover on their shareholders, employees, suppliers, customers, creditors, and communities in which they operate. The bill also provides that the duties of a director of a corporation and a trustee of a real estate investment trust do not require them to accept, recommend, or respond to any proposed takeover. Other provisions also make it procedurally harder to replace directors and effect a takeover in that way.

With more than 50 sponsors, **HB 5** has passed the House without dissent. This bill would set up a Smart Growth Economic Development Infrastructure Fund in the Department of Business and Economic Development for qualified economically distressed counties. Amendments to the bill broadened the scope of the Fund to provide financial assistance, including loans, investments, or forgivable loans, to these counties and added as eligible entities the Maryland Economic Development Corporation and, under certain circumstances, municipal corporations within qualified distressed counties. The bill was also amended to add a per capita personal income threshold to the definition of "distressed." Seven jurisdictions would currently qualify for assistance: Allegany, Caroline, Dorchester, Garrett, Somerset, and Worcester Counties, and Baltimore City. These same jurisdictions would qualify under an amended **HB 4**, with almost 60 sponsors, which would provide income tax benefits for job creation and expansion and encourage economic activity in economically distressed counties. **HB 4** passed the House without opposition on February 19. The companion bills for these measures, **SB 419** and **SB 421**, had Senate committee hearings this week.

EDUCATION

SB 682/HB 1026 revise the coordination, governance, and funding of the University System of Maryland. The measures would give the University System more autonomy by allowing the separate campuses and the Systems Board of Regents to create new academic programs without the oversight of the Maryland Higher Education Commission, as long as the programs conform to the campuses' mission statements. The President of the College Park Campus also would be given the authority to seek direct funding from the governor without the approval of the Board of Regents.

SB 354/HB 682 have been introduced to prevent fund-raising abuses by private organizations that raise money for the State's public universities. The bills would allow the General Assembly's Office of Legislative Audits in the Department of Legislative Services to review the financial records and audit reports of private foundations affiliated with a unit of State government.

Violence by students is an increasing concern, and student threats against school officials are already prohibited on school grounds. **SB 391/HB 907**, The School Safety Act of 1999, expand the

prohibition to include threats made on school buses, on off-campus property owned by school systems, and via telephone and e-mail to school workers in their homes. The bills also increase penalties and expand the crimes for which arrests must be reported to principals to include drug dealing or possession of explosive devices. **HB 485**, a more narrowly focused bill, would require police to notify school officials when they arrest a student for controlled dangerous substance offenses.

Two bills offer incentives to teachers who receive national certification. **SB 272** calls for the State to grant up to \$2,000 yearly to teachers who obtain national certification. **SB 273** would make the pilot State and local aid program for teachers who are selected to pursue such certification a permanent program, and would expand the number of teachers who may participate in the program from 48 to 300 a year.

ELECTIONS

SB 150/HB 563, which would require that campaign finance reports provide the full name, address, occupation, and employer of anyone who cumulatively contributes \$251 or more to a campaign, have been introduced. **SB 150** was heard on February 11 and **HB 563** is scheduled for a hearing on March 2. **HB 241**, heard this week, would require the same information, but for cumulative contributions of \$501 or more. **SB 668** would require the name, address, and amount of contribution for all contributors to be reported.

ENVIRONMENT

HB 788, introduced last week, repeals the December 31, 2001 termination date of the State's Enhanced Vehicle Emissions Inspection Program (VEIP) to ensure that Maryland continues to be eligible for federal funds targeted for the I-70/270 improvement project. A hearing is scheduled for March 3. A bill that makes the enhanced testing voluntary in Washington County, **HB 1042**, was introduced this week.

Several more measures were introduced this week that would restrict how and where material dredged from the Chesapeake Bay shipping channels could be dumped: **HB 756**, **HB 910**, **HB 911**, **HB 954**, and **HJ 14**.

FINANCIAL INSTITUTIONS

A Senate committee held a hearing on **SB 114** which offers recommendations of the Task Force to Study Bank Charter Modernization created by the General Assembly in 1997. Selected provisions of the legislation include the consolidation of real estate appraisal policies and the elimination of selected reporting requirements to the Commissioner of Financial Regulation. Another provision would provide the Commissioner greater power to approve State-chartered banking activities. The House version of the proposal, **HB 50**, passed third reading as amended. Also before the Senate this week was **SB 102** which proposes a task force to study modernization of credit union law. Companion bill **HB 96** is pending in committee.

HEALTH

SJ 1, urging Congress to enact and the President to sign legislation that would prohibit the federal government from recouping the medicaid portion of the State tobacco settlement funds, has passed the Senate. **SJ 2**, which would establish the Task Force on the Quality of Health Care, was heard in committee this week. **HB 909**, introduced late last week, will authorize a hospital that has transferred outpatient oncology, diagnostic, rehabilitative, and digestive disease services to an off-site facility due to zoning restrictions to elect to have its services subject to the Health Care Cost Review

Commission rate regulations.

Other measures concerned with health care regulatory reform were introduced in three separate bills. **HB 995** will integrate, consolidate, and streamline the responsibilities and duties of the Maryland Health Care Access and Cost Commission with those of the Health Services Cost Review Commission, which would be abolished, and the State Health Resources Planning Commission. **HB 953** would exempt open heart surgery operations from a "certificate of need" requirement. The "New Open Heart Surgery Service" would require a hospital providing this service to be licensed by the Secretary of the Department of Health and Mental Hygiene. Also included in this bill is the creation of a demonstration program to regulate the quality of care in new open heart surgery services and to provide the limited exemption from the certificate of need to be approved only if the Health Services Cost Review Commission determined that the new service would result in a net savings to the health care system. The third bill, **HB 994**, would eliminate the requirement for a certificate of need when a health care facility changes the type or scope of health care services, reallocates existing bed capacity, or moves to a site adjacent to or in the primary service area of the existing hospital.

HOUSING

HB 161, which would require new home builders to disclose information about the presence of hazardous materials on the site of a new home, has passed the House.

STATE GOVERNMENT

HB 179, a State employee collective bargaining bill, has been introduced and is scheduled for a hearing on February 23. It is the companion bill to **SB 129**.

UTILITIES

There are four different proposals before the General Assembly that address the deregulation of electric companies which will allow consumers to choose their electric suppliers. While **SB 300** and **HB 703** are similar, there are minor differences related to environmental disclosures, low-income assistance, and the further adjustment of transition cost recovery for generation assets. Transition or "stranded" costs are the recoverable costs, liabilities, and investments that the electric companies have already incurred in existing power plants. **SB 557/HB 578** allow competition in the supply of electric power to commercial, industrial, and residential users in Maryland. The measures also provide protections for consumers, low income families, and the environment. **HB 335** allows the Public Service Commission to move forward with its administrative process to determine how the electric market should be deregulated, although any action would have to be approved through legislation.

A measure has been introduced that would penalize telephone companies that change customers long distance service without their knowledge. Under **HB 960** companies could be fined for changing service without getting a customer's consent, and customers affected would not have to pay for up to three months of long distance service. A similar measure, **SB 299**, prohibits a telephone company from taking actions on behalf of a customer to change the long distance service unless the telephone company complies with authorization and confirmation procedures adopted by the Public Service Commission.