



The Legislative Wrap-Up

Library and Information Services, Department of Legislative Services

Issue 03-6

February 10-14, 2003

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STATE OF THE JUDICIARY AND GREEN BAG DELIVERY

Chief Judge Robert M. Bell presented the annual State of the Judiciary address to a joint session of the legislature this week. The speech focused on the “increasing pressures on our courts” and the need for additional funding for drug courts, court interpreters, and legal assistance for the poor. If the requests are granted, the Judicial Branch budget would increase about 7%.

On Friday, as required by the Maryland Constitution, the Governor’s Appointments Secretary delivered to the Senate President the list of nominations of civil officers that require Senate confirmation. Custom dictates that the annual list be presented in the State’s official leather “Green Bag,” embossed with the Maryland Great Seal, hence the sobriquet “Green Bag” appointments.

AGRICULTURE AND SEAFOOD INDUSTRY

The House approved legislation that allows the continuation of natural gas mining in Allegany and Garrett counties on property that becomes part of an agricultural district under the Maryland Agricultural Land Preservation Foundation (MALPF). [HB 91](#) also requires MALPF to determine that the continued mining of natural gas would not interfere with an agricultural operation on the property and to report on the impact. Similar bills have passed in previous years, but were vetoed by the Governor.

[SB 475/HB 820](#) amend Maryland law enacted last year that authorized the study of Suminoe oysters and other nonnative species for possible use in Maryland’s aquaculture industry and for other purposes. Sponsors believe that removing the requirement that the study proceed in accordance with findings of the National Academy of Sciences (NAS) review of Suminoe oysters should speed up the process. The proposed language states that the report should include to the extent possible the findings of the NAS review. A hearing is scheduled for next week on the Senate bill and next month on the House bill.

COURTS AND CIVIL PROCEEDINGS

Three proposals included in the Judicial Branch’s 2003 legislative package of 20 bills were defeated by committees this week:

- [SB 137/HB 53](#) would have altered the number of jurors making up the jury in a civil action, from a fixed number of 6 to a requirement of at least 6 jurors, a move to eliminate the concept of alternate jurors and permit more than 6 jurors in lieu of alternates;
- [SB 138/HB 55](#) would have increased from \$10 to \$35 the fee for a dishonored check written to the District Court or a circuit court, which would be consistent with private industry charges; and
- [SB 142/HB 56](#) would have increased the cap on the examination fee paid to the State Board of Law Examiners by each applicant for admission to the bar from \$150 to \$325, an effort to balance the board’s revenue with its expenditures should the actual fees be raised.

Increasing the maximum amount of a suit in a small claims action in District Court from \$2,500 to \$5,000 gained approval by the Senate this week ([SB 4](#)). A similar proposal ([HB 18](#)) passed in the House.

“Strategic lawsuit against public participation,” or SLAPP suit laws, protect individuals and groups, many with few assets, from defending costly legal challenges to their lawful exercise of free speech, assembly, and the right to petition the government. These suits often concern development and zoning issues. The goal of plaintiffs is often not to win the case, but to cause the defendants to devote such significant resources to defending it that they are unable to continue the challenged activities. [HB 113](#), heard in a committee this week, establishes that a SLAPP suit is a lawsuit that is brought in bad faith, is materially related to the defendant’s communication, and is intended to inhibit the exercise of free speech rights. Under the bill, a defendant in a SLAPP suit who has acted in good faith is granted immunity from civil liability, and may file a

counterclaim, move to dismiss the SLAPP suit, or move to stay all court proceedings until the matter about which the defendant communicated to the government body or the public at large is resolved. About 20 states have SLAPP suit laws on the books.

CRIMINAL MATTERS AND CORRECTIONS

If a criminal fails to make court-ordered victim restitution payments while on probation, the court may send the criminal back to jail. While the current maximum period of probation is 3 years for the District Court and 5 years for the circuit court, [HB 233](#) would allow the court to extend the period of probation beyond the specified time if the extension is only for making restitution, but would remove the current requirement that the defendant consent in writing to the extension. Testimony on the bill this week revealed that the laws of 3 states contain similar provisions.

[SB 352/HB 593](#) make it easier to convict a stalker by changing the standard required for a conviction from proving the intent of the stalker to a “reasonable person standard.” Instead of having to prove a defendant intended to place another in reasonable fear, prosecutors would only have to prove that the defendant knew, or reasonably should have known, the conduct would place another in reasonable fear. The measures would upgrade the crime from a misdemeanor to a felony, and would expand offensive acts to include not only fear of serious bodily harm or death, but also fear of assault, rape or sexual offenses, or false imprisonment.

Two measures extend the statute of limitations for filing a civil suit against a person who sexually abused a child. Currently, a child who has been sexually abused must file suit by the age of 21. [HB 165](#) allows a victim to file suit within a year after the resolution of a criminal case. [SB 68](#) sets the filing deadline at 12 years from the later of: (1) the victim's 21st birthday; or (2) the date the victim knew or should have known that the alleged abuse was actionable.

Motorists convicted of a “drive-off” (not paying for gas after dispensing it into the fuel tank at a gas station), in addition to the penalties for theft, would be subject to suspension of their drivers’ licenses by the Motor Vehicle Administration for up to 30 days for a first offense under [HB 49](#), which passed the House this week. The 30-day suspension would be mandatory for subsequent offenses. Companion [SB 282](#) was heard in a committee yesterday.

EDUCATION

[HB 568](#) enables members of the General Assembly to award all or part of the funds from a senatorial or delegate scholarship to a public institution of higher education in Maryland or to an academic program in a public institution of higher education. The public institutions must in turn award the funds to a student who is a State resident.

Companion bills, [SB 558/HB 873](#), propose a study commission to survey and study information relating to the issue of workload, administrative and bureaucratic tasks, and other intrusions of time that detract from the quality of teaching and learning as it impacts general and special education employees.

Heard this week, [HB 307](#) requires each county board of education to develop and implement identification procedures, services, and professional development activities for “gifted and talented” education programs that meet nationally accepted research-based standards endorsed by the State Board of Education. The bill also alters the current definition of gifted and talented students to conform to federal law. [HB 680](#) allows an individual who left high school in his senior year to enlist in the Viet Nam conflict to obtain his high school diploma. Currently the law allows for students who enlisted in the armed services during their senior year to fight in World War II or the Korean conflict to obtain their high school diplomas.

Additional proposals aimed at making improvements in Maryland’s public educational system include:

- [HB 687](#) that calls for a moratorium on the suspension of elementary students in public schools for 2 years starting in the fall of the 2003–2004 school year and requires each county board to develop and implement alternate in-school disciplinary methods for elementary students;
- [HB 868](#) that repeals the prohibition on pagers on public school property in Baltimore City, Caroline, Dorchester, Somerset, Talbot, Wicomico, and Worcester Counties where the prohibition is currently in force;
- [SB 395](#), the Commercialism in Public Schools Act, that requires county school boards to develop and adopt policies limiting or prohibiting certain advertising or marketing in public schools;

- [SB 396](#), the Children’s Nutrition and Health in Schools Act, that requires county boards of education to adopt a policy on vending machines to include prohibiting times of access to machines with foods of minimal nutritional value and requiring that 50% of all food and drink in machines be nutritious; and
- [SB 620](#) that abolishes student service as a requirement for graduation from Maryland public schools. The school system may have a student service program in which the students can participate on an elective basis.

ELECTIONS

Changes to Maryland’s campaign financing laws, as in past sessions, will be under consideration during 2003. One measure extends the Study Commission on Public Funding of Campaigns’ reporting deadline to the end of the year ([SB 40/HB 29](#)). Current Maryland law provides for public financing of elections for the Governor and Lieutenant Governor, but not for candidates for the General Assembly. As of 2000, there were 25 states with public financing provisions for state legislative candidates.

Other 2003 proposals ([SB 259/HB 666](#)) require a campaign finance report to include the identity of the contributor by full name, mailing address, occupation, and employer if the contribution is in the amount of \$251 or more, or the contributor has contributed to the candidate or committee during the 4-year election cycle in which the contribution is made, a cumulative amount of \$251 or more. [SB 132/HB 660](#) close a loophole in campaign financing laws that treats limited liability companies differently from corporations.

Legislators have also proposed to prohibit campaign contributions by persons who engage in gaming activities, defined as video lottery terminals or casinos authorized by the State ([HB 105](#)). An additional House bill ([HB 869](#)) changes the campaign contribution limitation placed on an individual’s aggregate contributions during a four-year election cycle from the current \$10,000 to a new cap of \$20,000. The limit on contributions to individual candidates would remain at \$4,000. [SB 214](#) contains the same language. Supporters contend that incumbent candidates receive all of the contributions under the lower cap to the detriment of first-time candidates.

[HB 282](#) prohibits fund-raising by a member of the General Assembly, or a person acting on behalf of a member, outside the member’s legislative district or sub-district for several days before a regular session begins and for several days after a session ends. Current law prohibits fund-raising during a session but not immediately before or after a session.

On another topic related to elections, several bills alter the age of children permitted in voting booths. Current law, prohibiting children over the age of 10 from accompanying a voter into the voting booth, would be changed under [HB 14](#) to allow a child under the age of 13 to accompany a voter. Another measure, [HB 36](#), allows an individual under the age of 15 who is accompanying a voter to have access to a voting booth on the condition that the child is in the care of the voter and does not disrupt or interfere with normal voting procedures. An individual over the age of 14 would not be allowed to accompany a voter into the booth. Companion bills, [SB 23/HB 77](#), allow a minor child of a voter to accompany the voter into the booth. [SB 23](#) has passed the Senate.

ENVIRONMENTAL MATTERS

Proposed legislation, scheduled for a hearing next week, imposes additional requirements on the Secretary of the Department of Natural Resources (DNR) to consider the best scientific, economic, biological, and sociological information available in the formulation of legislative or regulatory proposals, budgetary or administrative decisions, or policies related to the management, conservation, or sustainability of the State’s natural resources. Additionally, [SB 474](#) requires that the economic impact of proposals, decisions, and policies upon the State be part of the considerations.

[SB 287](#), also scheduled for a hearing next week, gives the DNR the authority to issue regulations that prohibit the importation, possession, or introduction of nonnative aquatic organisms into State waters. The bill also authorizes DNR to enter and inspect properties to determine if a “state of nuisance” exists, makes provisions relating to abatement, and establishes penalties. The purpose of the bill is to protect aquatic ecosystems and the productivity of State waters.

FISCAL MATTERS

A number of measures are under consideration to help balance the budget by transferring funds and increasing revenues for this fiscal year and FY 2004.

SB 657/HB 935, Budget Reconciliation and Financing Act of 2003, increase General Fund revenues for fiscal years 2003 and 2004 by transferring money from special funds to the General Fund, reallocating revenues to the General Fund, and reducing certain aid amounts. Among the changes are a transfer for fiscal year 2003 of \$29,000,000 from the University System of Maryland and \$5,000,000 from the 911 Trust Fund, \$150,000,000 each fiscal year for years 2003 and 2004 from the Transportation Trust Fund to the General Fund, and \$8,000,000 for FY 2003 and \$10,000,000 for FY 2004 from the Waterway Improvement Fund. The bill also deducts \$10,000,000, for the partial cost of the State's property tax administration, from the homestead tax credit amounts paid to the counties.

HB 776 increases the annual filing fee from \$100 to \$250 for business entities required to file annual reports with the Department of Assessments and Taxation and adds limited liability companies and limited partnerships to the types of entities that must file annual reports. The bill also changes corporate tax law to enhance Maryland revenue by expanding the number of corporations that must file income tax returns in Maryland. **SB 392** and **SB 397** address the allocation of income of corporations to Maryland for Maryland tax purposes.

SB 656/HB 936 and **HB 753** require State agencies that issue or renew licenses or permits verify that the applicant has paid all undisputed taxes and unemployment insurance contributions. Other provisions expand the Comptroller's authority to collect delinquent taxes, require financial institutions to provide information to the Comptroller concerning delinquent taxpayers, and require the withholding of proceeds in selected transactions involving non-Maryland businesses. **HB 753** also eliminates the vendor allowances for collecting certain fees and taxes. **HB 341** ends the Maryland Heritage Structure Rehabilitation Tax Credit program this June 1 rather than June 1, 2004. Only tax credits for rehabilitation projects that were applied for by February 1, 2003 may be claimed. **SB 203** is a similar measure.

HB 500 imposes a 6% income tax rate on income over \$100,000 for an individual and on income over \$150,000 for those filing a joint return. This 6% rate would be in

effect for taxable years 2003, 2004, and 2005, and after December 31, 2005, the rate would return to the current 4.75%. **HB 910** increases several tax rates including the income tax for 2003 and 2004 to 4.8% from 4.75%. The bill also increases the sales tax rate to 6 cents from 5 cents, and increases the gasoline tax rate by 5 cents to 28.5 cents per gallon for the period July 1, 2003, through June 30, 2005.

This week the House passed **HB 86**, expanding the police authority of authorized employees of the Investigative Services Unit of the State Comptroller's Office to enforce all matters within the authority and jurisdiction of the Comptroller including income tax matters. Current provisions of law limit the authority to selected taxes and areas such as the alcoholic beverages tax, the tobacco tax, and motor fuel tax.

HEALTH CARE AND INSURANCE

Hearings were held this week on **SB 477/HB 2**, the Small Business Health Insurance Affordability Act, and proposed changes to the Comprehensive Standard Health Benefit Plan (CSHBP) available to small employers. Another bill (**SB 166**), on the hearing schedule this week related to CSHBP, modifies the cost-sharing requirements for the small group market's plan. The companion bill (**HB 600**) will be before a committee next week. Emergency legislation (**HB 211**) has passed the House to repeal the enrollment cap of 30,000 enrollees, who are primarily senior citizens, in the Short-Term Prescription Drug Subsidy Plan and permits the plan to enroll the maximum number of individuals eligible for enrollment, subject to available funds. The plan provides drug coverage to all Medicare-eligible residents over 65 and individuals who have annual household incomes at or below 300% of federal poverty guidelines. Enrollees must pay a monthly premium and co-payments and are subject to a \$1,000 annual benefit limit. The plan terminates in June, but participants will be transferred to a new Senior Prescription Drug Program under CareFirst BlueCross BlueShield with the same benefits.

Legislation (**HB 121**) relating to a Hepatitis B vaccination requirement of first-time enrollees in higher education institutions generated public comment before a House committee this week. Under the bill, if a waiver is signed by the student (or student's parent or guardian if the student is a minor), the student would be exempt from the requirement. Similar legislation passed the House last session but died in a Senate committee.

Also heard by a committee this week, [SB 91](#) requires the Department of Health and Mental Hygiene (DHMH) to adjust annually the fees paid to community health services providers. The rate of change will be based on the medical component of the Consumer Price Index for the Washington-Baltimore metropolitan area and will take effect starting in the fiscal year in which the Bureau of Revenue Estimates projects a personal income growth of 4%. The annual rate of change may not exceed a maximum rate of 5%. [HB 130](#) is similar legislation. Similar measures in prior sessions failed to pass.

Receiving unfavorable reports in their respective chambers' committees, [SB 48/HB 60](#), would have established an electronic monitoring program in DHMH to monitor the dispensing of controlled dangerous substances. The bills required pharmacists, physicians, and other health care providers who are licensed as dispensers with the Board of Pharmacy to report data in an electronic format to DHMH.

SPORTS AND GAMING

[HB 746](#) requires protective eye, head and body gear, and other baseball equipment that meets or exceeds certain standards for youth baseball teams whose members are under 17 years of age.

Two more bills dealing with video lottery terminals (slot machines) were recently introduced. [HB 800](#) is a constitutional amendment that calls for regulation by the State Lottery Commission of the operation of no more than 6 slot machine facilities in 4 different regions of the State. The total number of slot machines would not exceed 10,000 devices, which would be owned or leased by the commission and under the control of the commission. The applicants to run the facilities must, at a minimum, hold licenses for racetracks and local voter approval where the track is located is required. At least half of the proceeds must be dedicated to implement the Thornton Commission initiatives, the Task Force to Study College Readiness for Disadvantaged and Capable Students recommendations, and public libraries.

Under [HB 890](#), also a constitutional amendment with many of the same administrative provisions as [HB 800](#), the State Lottery Commission could license no more than 6 video lottery facilities to operate slot machines at 6 destination tourist locations in 6 different regions of the State as specified in the bill. A license could only be

issued if local voters in a county or Baltimore cast a majority of their votes in favor of the constitutional amendment. At least half of the proceeds must be used to provide an adequate education for children attending public elementary and secondary schools through the implementation of the 2002 Bridge to Excellence in Public Schools programs; to enhance college readiness, teacher preparation and financial aid for disadvantaged and capable students through the 2002 College Readiness for Disadvantaged and Capable Students programs; and to support public libraries. At least 5% of the net proceeds generated at each video terminal location shall be distributed to the county where the facility is located.

TRANSPORTATION

[SB 497](#) authorizes State agencies, local governments, or other political subdivisions with the appropriate jurisdiction, to enter into a public-private partnership to acquire, construct, or improve a transportation facility, defined as an airport, highway, port, railroad, or transit facility. To enter into an agreement there must be a public need for the facility which must be compatible with local and State transportation plans, the estimated cost must be reasonable compared to similar facilities, and the project must be completed in a more timely manner and operated more cost efficiently. Similar legislation has been considered in the last two sessions.

A Senate committee heard testimony on [SB 87](#) that requires a driver approaching from the rear of an emergency or police vehicle that is stopped and has lights flashing to move to the next lane if driving on a highway with 2 or more lanes of traffic moving in the same direction. If the driver is on a single lane road, the driver must reduce speed by 20 mph less than the posted speed limit. If the posted speed limit is 20 mph, the driver would have to slow to 5 mph.

In light of the Metropolitan Washington Region having the third worst traffic congestion in the nation, [SJ 7/HJ 12](#) urge the Governors of Maryland and Virginia and the Mayor of the District of Columbia to convene a regional conference to discuss the creation of a Maryland, Virginia, and DC Multi-Jurisdictional Regional Transportation Authority. The conference would address long-term regional transportation solutions, potential funding sources for regional capital projects, and the feasibility and merits of establishing the Authority.