



The Legislative Wrap-Up

Library and Information Services, Department of Legislative Services

Issue 03-7

February 17-21, 2003

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THE 45th DAY

With *sine die* scheduled for Monday, April 7, the 45th day or the half-way point of the 90-day session occurred on Friday, February 21. The 2003 General Assembly also passed another milestone of sorts on Monday, February 17 when, for the first time in recent memory, floor sessions during a 90-day session were cancelled. The departure from the tradition of meeting despite official holidays or inclement weather came in response to the extremely heavy snow that gripped Annapolis and the entire State. On Tuesday, the Senate and House floor sessions convened at noon, but the House of Delegates cancelled committee hearings that afternoon. Deliberations resumed their normal pace on Wednesday, February 19.

Bill introductions continue to climb. To date, the total in the Senate is 716 bills and 10 joint resolutions. The House has introduced 1,085 bills and 17 joint resolutions.

CIVIL RIGHTS

[SB 434](#), a proposal to create an African-American Reparation Task Force, was the subject of a committee hearing this week. The task force will examine the institution of slavery in the United States and recommend ways to educate the public about its findings and for remedies in consideration of these findings. The recommendations are expected to address whether the State should offer a formal apology for the perpetration of gross human rights violations and whether compensation to the descendants of African slaves is warranted. Any compensation recommendations should address the form and amount of compensation, as well as eligibility.

COURTS AND CIVIL PROCEEDINGS

Current law allows a judge to excuse from jury duty a person who shows that undue hardship, extreme inconvenience, or public necessity requires the release, and only for a period of time considered necessary by

the judge. [SB 211](#), heard by a committee this week, would require a judge to excuse from jury duty mothers who are breast-feeding a child under the age of 2 years. Four other states have a jury duty exemption for nursing mothers.

[HB 113](#) establishes that a “strategic lawsuit against public participation” (SLAPP suit) is a lawsuit that is brought in bad faith, is materially related to the defendant’s communication to a government agency or the public at large, and is intended to inhibit the exercise of free speech rights. The amended bill, passed by the House this week, grants immunity from civil liability to a SLAPP suit defendant. It would also expedite the legal process by allowing the defendant to move to dismiss the SLAPP suit or to move to stay all court proceedings until the matter about which the defendant communicated is resolved.

A House committee voted down [HB 120](#) that would have replaced the contested election and 15-year tenure of a circuit court judge with approval or rejection of appointment via retention election and a 10-year term of office following election. Companion [SB 35](#) and similar bills ([SB 6](#) and [SB 88](#)) have had hearings and await Senate committee action.

CRIMINAL MATTERS AND CORRECTIONS

“Rape shield laws” limit the evidentiary use of a victim’s prior sexual history as a way of undermining the victim’s credibility in a prosecution. In most cases, current Maryland law prohibits the use of evidence relating to a victim’s reputation for chastity in a prosecution for rape, attempted rape, sexual offense in the first or second degree, or attempted sexual offense in the first or second degree. [SB 453](#), passed this week by the Senate, expands the list of offenses to which this prohibition applies to include second degree rape or attempted second degree rape; third or fourth degree sexual offense; sexual conduct between a correctional or juvenile justice employee and an inmate or confined child; sexual abuse of a minor or a vulnerable adult; sodomy; unnatural or perverted sexual practice; and incest. The bill also prohibits, in prosecutions of these crimes, the use of evidence relating to the victim’s

reputation for abstinence. No action has been taken on companion [HB 196](#).

Under current law, any application filed in District Court that alleges an offense by a law enforcement officer, emergency services staff person, or educator committed in the course of executing the individual's duties must be screened by a State's Attorney, who then has 20 days to investigate the matter and recommend whether a summons or warrant should be issued. [SB 237/HB 295](#) would expand the screening requirement to include applications filed by citizens alleging any offense, except actual or threatened physical injury. The intent of the legislation is to give the State's Attorney the option to recommend mediation to resolve the dispute, if appropriate. [SB 576](#), a similar proposal applicable only in Baltimore City, would require the State's Attorney to screen each application filed in the District Court alleging a felony, unless the alleged perpetrator poses an immediate threat to the public or to an individual. The State's Attorney would have 24 hours to investigate and make a recommendation. All 3 bills have had hearings, but no committee action has been taken.

EDUCATION

Committee testimony recently addressed [HB 253](#) which exempts an individual, other than a nonimmigrant alien, from paying nonresident tuition at a public State college or university if the individual:

- attended a secondary school in Maryland for at least 3 years;
- graduated from a high school in the State or received the equivalent of a high school diploma in the State;
- registers as an entering student at the institution no earlier than the 2003 fall semester;
- provides an affidavit stating that the individual will file for permanent residency within 30 days after being eligible to do so; and
- makes application to the institution not later than 5 years after graduating from high school or receiving the equivalent of a high school diploma.

Supporters contend that immigrant students who meet these requirements should not have to pay the higher tuition fees. Companion bill [SB 520](#) will be heard in March. Last session an amended House bill that applied

only to community college tuition passed that chamber, but was not successful in the Senate.

Two bills, also heard recently ([SB 202](#) and [HB 358](#)), extend the time from 12 to 15 years that a conventional school bus may remain in operation. The House proposal also repeals the provision enabling buses to remain in operation for more than 12 years under certain conditions, but the Senate bill retains the provision that allows bus operation for additional years under certain conditions.

ENVIRONMENTAL MATTERS

Before passing on a preliminary floor vote, the House adopted technical and clarifying amendments to [HB 39](#) that creates a pilot grant program allowing a county to participate in assisting residential well owners with the costs of treatment systems for radium or gross alpha-contaminated wells. The program is slated to remain in effect for 3 years with implementation by the Department of Housing and Community Development, subject to the availability of funding.

The House also passed on second reading amended legislation that makes several changes in noise and pollution control efforts. [HB 174](#) encourages local governments to consider compliance with State or local noise standards before acting on variance requests or changes in zoning. The House proposal changes the membership criteria and increases the number of members of the Environmental Noise Advisory Council and requires the Maryland Department of the Environment (MDE) to submit proposed revisions in noise regulations to the Council, conduct public hearings, and prepare or solicit technical input on the revisions. The Council is authorized to provide advice to MDE on noise pollution. The membership of the Interagency Noise Control Committee is also expanded to include additional State agencies. The companion bill, [SB 320](#), was heard by a committee this week.

Legislation amending current penalty provisions related to asbestos removal violations passed the Senate. [SB 95](#) removes the requirement that a civil penalty for an asbestos removal violation must have been previously assessed before a criminal sanction can apply.

The Smart Growth Act of 1997 was built on existing State policy that attempted to foster State and local cooperation in statewide growth management by focusing State spending in those areas that provide the

most efficient and effective use of taxpayer dollars, to support and revitalize neighborhoods and villages. In late 1998, additional law prohibited the State from funding any growth-related project not located within a priority funding area, with certain exceptions. 2003 legislation ([HB 351](#)) would amend the Smart Growth Areas Act to consider a “qualified distressed county” as a priority funding area (PFA). Under this bill, which received a committee hearing this week, a qualified distressed county must submit a local strategic economic development plan approved by the Secretary of the Department of Business and Economic Development. The county must have an unemployment rate 150% higher than the average unemployment rate for the State for the most recent 18-month period, or have a per capita personal income pegged at 67% or less than the average for the State in the last 24-month period. If the bill is enacted, any county that qualifies would be eligible for funding of State public works projects that may not otherwise meet criteria of the State Economic Growth, Resource Protection, and Planning Policy.

FISCAL MATTERS

Legislation introduced this week increases the sales tax rate from 5% to 6% ([HB 1053](#)). Another measure ([HB 1020](#)) would impose the sales tax on motor vehicle fuels, with the tax built into the sales price. The portion of sales tax revenue obtained from the imposition of the sales tax to motor vehicle fuels would be dedicated to the Transportation Trust Fund (TTF). The current motor fuel tax would be unchanged. Other provisions change the distribution of some revenues from the TTF to the general fund.

[HB 37](#), allowing a 4-day sales tax-free week, will be heard in committee next week. It exempts clothing and footwear with a taxable price under \$100 from the sales tax and allows the exemption from August 22 through August 25, 2003. Similar legislation ([SB 66](#)) has been withdrawn in the Senate.

A House committee conducted a hearing on a bill reintroduced from last year ([HB 19](#)) that would impose recordation and transfer taxes on the transfer of real property with a value of \$500,000 or more, when the transfer is achieved through the sale of a “controlling” interest in a specified corporation, partnership, limited liability company, or other form of unincorporated business. “Controlling” interest is defined as more than 80% of total value of the stock or the interest in capital and profits. Revenues would go to local governments

and to several State special funds including Program Open Space, Agricultural Land Preservation, and Rural Legacy. Companion [SB 120](#) had a hearing earlier this month.

The Senate has heard testimony from the public on [SB 203](#) that 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. [HB 341](#), a similar measure, has not received a public hearing yet.

HEALTH CARE AND INSURANCE

Legislation related to uncompensated trauma care was heard by a Senate committee on Wednesday. [SB 479](#), the companion to the Speaker’s bill ([HB 1](#)), establishes a special fund to reimburse trauma care physicians. Money for the fund, administered by the Maryland Health Care Commission and the Health Services Cost Review Commission, would be derived from a \$2 per vehicle motor vehicle insurance policy surcharge. Another Senate measure, [SB 587](#), while similar, adds trauma centers to the fund reimbursement pool and includes a \$4 per vehicle motor vehicle insurance policy surcharge. This proposal would be administered by the Maryland Institute for Emergency Medical Services Systems.

Cardiac services legislation was heard by a House committee on Friday. [HB 236](#) removes the certificate of need (CON) requirement from the licensing of open-heart surgery programs by the Department of Health and Mental Hygiene (DHMH). [HB 828](#) also expands the number of hospitals that provide open-heart surgery but, instead of removing the CON, changes the requirements for approval of a certificate by the Maryland Health Care Commission. The companion bills ([SB 337](#) and [SB 424](#)) will have a hearing on March 6.

The regulation of crematories in the State was aired in a Senate committee this week. [SB 484](#) and its companion, [HB 756](#), require the State Board of Morticians to regulate and license operators of crematories. Currently cremation services provided by cemeteries are not regulated. The House will hold a hearing next week. Another bill introduced but with no hearing scheduled, [HB 13](#), provides for regulation of crematories by either the Board or the Office of Cemetery Oversight. Similar legislation in previous sessions passed in the House but was killed in a Senate committee.

Scheduled to move on Monday from committee to the Senate floor with amendments, [SB 450](#) is emergency legislation to repeal the enrollment cap of 30,000 enrollees in the Short-Term Prescription Drug Subsidy Plan and permit the plan to enroll the maximum number eligible, subject to available funds. Companion [HB 211](#) has already passed the House, but with no amendments.

[SB 477](#), the Small Business Health Insurance Affordability Act, has passed a preliminary Senate floor vote with amendments. One of the bill's provisions reduces the premium rate affordability cap for the standard plan available to small businesses from 12% to 10% of the annual average wage in Maryland. Companion [HB 2](#) is still pending in a House committee. Another bill addressing the small group health insurance market, [SB 382](#), received an unfavorable committee report after its hearing. As introduced, this bill would have required the Maryland Health Care Commission (MHCC) to develop a basic health benefit plan to be sold in the small group market. MHCC would have been required to exclude or to limit benefits or to adjust cost-sharing arrangements in the basic plan if the average rate for the basic plan exceeds 8% of the average annual wage in Maryland.

SPORTS AND GAMING

Crucial deliberations on a number of the "slots" bills are set to begin in both Senate and House committees next week. On the Senate side, the hearings are scheduled for Wednesday, February 26, with House hearings set for Tuesday, February 25. Recently-introduced bills ([SB 697/HB 1014](#)) prohibit video lottery terminals and other gaming devices, except for pari-mutuel betting, from being operated at the Pimlico Race Course unless the owner of the Preakness Stakes and the owner of the rights to the Woodlawn Vase transfer the name and other rights to the State of Maryland. In turn, under certain conditions and requirements, the State would license the persons who transferred those rights.

Hunting bills under consideration include:

- [HB 629](#) calling for a moratorium on killing black bears in Maryland until or after July 1, 2009, with exceptions to the ban including killing bears while defending persons, property, or domestic animals, or after exhausting all nonlethal methods of resolving problems caused by bears; and

- [HB 679](#) providing for Sunday deer hunting on privately owned lands with the permission of the landowner, or on any Sunday in November or December in certain areas of the State. This bill does not include the hunting of sika deer.

TRANSPORTATION

Several measures targeting repeat drunk and drugged driving offenders are before the legislature:

- [SB 94/HB 249](#) extend from 5 to 10 years the period during which a court is allowed to place a person on probation if the person has been convicted of or given probation for a subsequent alcohol and/or drug related violation or homicide or life-threatening injury by motor vehicle offenses; and
- [HB 699](#), a similar measure, authorizes the Motor Vehicle Administration (MVA) to suspend for not more than 6 months (current law states not more than 60 days) the license of persons who are convicted of driving or attempting to drive a motor vehicle while they are impaired by alcohol and/or drugs. In addition, the MVA would be authorized to suspend, for not more than 12 months (currently not more than 120 days), the license of any person who was previously convicted within a 5-year, rather than current 3-year, period of driving or attempting to drive while impaired by alcohol and/or drugs;

Other legislation ([SB 405/HB 584](#)) expands the types of alcohol- and/or drug-related driving offenses that require the imposition of the mandatory minimum criminal penalties for any subsequent offenses. (Current law applies to offenses of driving while under the influence of alcohol or under the influence of alcohol per se.) These bills also repeal the authority of a court to order community service for the purpose of meeting the mandatory minimum penalties for a subsequent offense and limit the imposition of home detention with electronic monitoring to the purpose of participating in a certified drug or alcohol treatment program.

Under [HB 252](#), a driver under the age of 21 who is cited for driving or attempting to drive while having any alcohol in the blood may not comply with the citation by prepaying the fine. The driver must appear in court in person for trial.

The use of traffic control signal monitoring systems--radar cameras and red light cameras--is also under scrutiny. [SB 455/HB 694](#) authorizes local governments and the State to issue citations or warnings to vehicle owners for speeding based on evidence collected by speed monitoring systems. [SB 246](#) eliminates the traffic control signal monitoring systems, except in a school zone, at a railroad crossing, or when a law enforcement officer is present and can issue a citation at the time and place of the violation. [HB 587](#) creates a task force to study the use of traffic control signal and speed monitoring systems in enforcing laws that prohibit speeding and entering an intersection against a red signal.

UTILITIES

[HB 370](#) requires the Public Service Commission (PSC) to establish a Clean Energy Portfolio Standard that applies to all retail electricity products sold in the State. Energy is eligible for inclusion in meeting the standard if generated from an eligible energy resource at a facility that did not produce energy from an eligible energy resource before January 1, 2003. Eligible energy sources include solar; wind; qualifying biomass; methane from the anaerobic decomposition of organic materials in a landfill or wastewater treatment plant; geothermal; and ocean, including energy from waves, tides, currents and thermal differences. The portfolio standard starts at 0.5% in 2006, and gradually increases to 7.5% in 2013 and each year thereafter. The bill also establishes a clean energy fund to encourage the development of sources for clean energy in Maryland.

Additionally, [HB 370](#) establishes a market-based clean electricity trading system in which electricity suppliers can trade clean energy credits with each other to fulfill the energy portfolio standard. Each electricity supplier must submit an annual report to PSC relating to compliance with the portfolio standard for the preceding year.