



The Legislative Wrap-Up

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AGRICULTURE AND SEAFOOD INDUSTRY

The House approved [HB 547](#) and will now consider its companion, [SB 367](#), which establishes a Task Force on the Marketing of Grain and Other Agricultural Products. The task force will evaluate options and develop strategies for marketing grain (particularly soybeans) and other products, as well as examine the feasibility of reestablishing a grain export facility and establishing new transportation options from alternative locations in central Maryland.

Legislation, on a Senate committee agenda next week, amends provisions related to fishery management plans. [HB 65](#) requires that a plan's conservation and management measures, to the extent possible, achieve sustainable use of the fishery. It also requires rebuilding depressed stocks to the highest sustainable yields that are consistent with available habitat and the general ecosystem, and that the measures be based on the best available scientific information and promote the protection and restoration of fish habitat.

House committee action was negative on the bill that would have classified domesticated reindeer as livestock under the Maryland Department of Agriculture ([HB 475](#)) and legislation that would have prohibited close confinement of a pregnant sow for all or a majority of any day ([HB 755](#)). The companion is [SB 271](#).

CRIMINAL MATTERS AND CORRECTIONS

A proposal to abolish the death penalty and bar future executions ([SB 544](#)) failed in a Senate committee. Two other death penalty bills passed preliminary Senate floor votes, with final votes scheduled next week:

- [SB 12](#) institutes a death penalty moratorium in Maryland until July 1, 2005, and creates a commission to review various studies on capital punishment and issue a report with recommendations designed to guarantee that the application and administration of the death penalty is free from bias and error; and

- [SB 53](#) requires a stricter standard of proof for determining whether to impose the death penalty, changing the standard from "preponderance of the evidence" to "beyond a reasonable doubt."

During Friday's floor session, the House agreed to pass on second reading [HB 110](#) granting offenders who were convicted of manufacturing, distributing, dispensing, or possessing a controlled dangerous substance the same "good conduct" credits that are given to nonviolent offenders. Amendments exclude volume drug dealers and drug kingpins from eligibility for the additional 5 diminution credits per month.

Proposals similar to the city of Richmond's "Project Exile" initiative and a variety of other gun control measures were before a House committee recently:

- [HB 858](#) and [HB 127](#) subject any felon caught possessing a gun to a mandatory minimum jail sentence not subject to parole, and restrict pretrial release of such felons, among other provisions;
- [HB 844](#) strengthens the law banning assault weapons;
- [HB 836](#) requires the loss or theft of a firearm to be reported by the owner to the State Police within 48 hours of discovery;
- [HB 696](#) expands the current ballistic fingerprinting requirements for handguns to apply to all new firearms;
- [HB 579](#) repeals the current ballistic fingerprinting requirements for handguns; and
- [HB 583](#) repeals the requirements for external safety locks or integrated mechanical safety devices for handguns.

The Senate has already held hearings on its gun control measures, but has not reported any votes.

ECONOMIC, BUSINESS, AND CONSUMER ISSUES

A Senate committee heard testimony this week on [SB 616](#) authorizing the issuance and renewal of alcoholic beverage licenses to businesses such as large chain stores, supermarkets, pharmacies, drugstores, gas stations, and convenience stores. The companion is [HB 990](#).

Legislation forming new task forces is moving through both houses. [SB 487](#), creating a Task Force on Broadband Communications Deployment in Underserved Rural Areas, passed with amendments in the Senate. The task force is charged with evaluating the State's resources, infrastructure, and cost structures for developing and accessing broadband communications in rural areas. Related legislation, [HB 697](#), was heard in the House this week. [SB 183](#), to establish a Task Force to Study the Dynamics of Elderly and Retiree Migration Into and Out of Maryland, passed the Senate.

Under [SB 686](#), before a Senate committee next week, lodging establishments will be required to offer an accessible room on the 6th floor or below to a person with a mobility impairment and to install a platform lift or stairway device on every other floor.

[HB 226](#), which would have required credit agencies to provide consumers with the same credit scores and information pertaining to credit scores as would be provided to users of credit scores, died in committee. [SB 430](#), creating a Short-Term Small Consumer Loan Study Commission, also failed.

[SB 621/HB 134](#) were withdrawn this week. The bills would have prohibited a person from requesting, recording, or distributing the Social Security number of an individual who is seeking to obtain consumer goods or services as a condition of providing such goods or services. Also withdrawn, [HB 147](#) would have prohibited the sending of a blank check or other payment device through the mail without prior request or application by the recipient.

On a federal note, the President signed legislation creating a national "do not call list" for telemarketers. Under the new law, consumers will be able to block unwanted telemarketing calls by enrolling free of charge in a national registry.

EDUCATION

At midweek a Senate committee reported an amended Charter School Act favorably. [SB 75](#) grants primary chartering authority to a county board of education, with the State Board of Education as a secondary chartering authority in an appeal review capacity. The same committee killed [SB 388](#), the Administration's Public Charter School Act, which would have established a Maryland Public Charter School Program with chartering authority granted to the State Board of Education (SBE), local boards of education, public institutions of higher education, or any other entity designated by SBE. No action has been taken on its companion [HB 859](#), which was heard last week.

Bills that will not become law this year because of unfavorable committee action include:

- [HB 568](#) that would have allowed a State legislator to award all, or a portion of, the funds authorized for the legislator's Senatorial or Delegate scholarships to a public institution of higher education or an academic program in a public institution of higher education; and
- [HB 218](#) and [HB 578](#) that would have authorized public schools to allow home-schooled students to participate in extracurricular school activities, including interscholastic athletics.

ELECTIONS

The House passed an amended version of [HB 660](#) that closes a loophole in campaign financing laws treating limited liability companies differently from corporations. The bill attributes the campaign contributions of certain associated business entities to a single contributor for the purpose of determining the maximum amount of contributions that the associated business entities may make. The companion is [SB 132](#).

A Senate committee gathered commentary on legislation requiring an election judge to qualify a voter by requesting the voter to present a form of identification, such as a driver's license or an employee identification card ([SB 679](#)). Companion [HB 1110](#) will be heard next week.

[HB 246](#) that would have increased the statute of limitations from 3 years to 4 years for a prosecution of certain criminal offenses under the State election law failed on third reading in the House on Friday.

Committee action also ended the legislative progress of several bills related to campaign financing:

- [SB 214](#) and [HB 869](#) would have changed the campaign contribution limitation placed on an individual's aggregate contributions during a 4-year election cycle from the current \$10,000 to a new cap of \$20,000;
- [HB 666](#) would have required the campaign finance reports of candidates and political committees to include the name, address, occupation, and employer of persons contributing \$251 or more. (The companion is [SB 259](#));
- [HB 654](#) would have required campaign finance reports filed by a campaign finance entity that is a slate to note for each expenditure the slate candidate on whose behalf the expenditure was made or for whose benefit it was intended;
- [HB 663](#) would have altered the amount of cumulative transfers allowed between a slate and each campaign finance entity of its members during an election cycle; and
- [HB 282](#) would have prohibited a member of the General Assembly from holding a fund-raising event outside the member's district or subdistrict during certain periods before and after a regular legislative session.

Three bills that would have altered the age that a child must be to accompany a voter into the voting booth also died in committee ([HB 14](#), [HB 36](#), and [HB 77](#)). [SB 23](#), the companion to [HB 77](#), passed the Senate last month, but no House committee hearing has been scheduled.

[SB 207](#) that would have expanded the prohibition against payment for political endorsements or "walk-around services" to any individual was withdrawn. Also withdrawn, [SB 218](#) would have required the State Ethics Commission to revoke the registration of a regulated lobbyist if the Commission determined that the lobbyist had been convicted of a felony, a misdemeanor arising from lobbying activities, or bribery, theft, or a crime involving moral turpitude.

ENVIRONMENTAL MATTERS

Testimony was heard in a House committee this week on several environmental protection proposals:

- [HB 747](#) establishes minimum energy efficiency standards for 10 products including ceiling fans and ceiling fan light kits, illuminated exit signs, large packaged air-conditioning equipment, and commercial clothes washers to be sold in Maryland after January 1, 2005, or installed in Maryland after January 1, 2006. (The companion is [SB 394](#)); and
- [HB 911](#) limits the disposal, after December 31, 2004, of cathode ray tubes (CRTs) from computer monitors or televisions to locations designated by the Department of the Environment (MDE) for the management or recycling of CRTs.

[HB 1051](#), also before a committee, amends MDE's Voluntary Cleanup Program (VCP) portion of the Brownfields initiative by exempting certain property owners and operators from the definition of a "responsible person" under the Controlled Hazardous Substances Law. Other changes allow a reduction of the application fee for participation in VCP under certain conditions, and provide that a determination by MDE that it has no further requirements under VCP is transferable to subsequent purchasers under specified conditions.

Under [HB 1051](#), if a determination is dependent on certain uses or conditions, the participant must record the determination in the land records of the local jurisdiction or the determination is void. The bill also establishes an Environmental Restoration and Development Task Force to review changes in federal law relating to Brownfields and to examine the consequences of expanding the program and liability protections.

In other action, legislation ([HB 351](#)) that would have amended the Smart Growth Areas Act to consider a "qualified distressed county" as a priority funding area was withdrawn from consideration.

Legislation ([SB 393](#)) now on the Senate floor, expands existing criminal and civil penalties for violations of certain sediment erosion and control, stormwater management, tidal and nontidal wetlands, water pollution control, and wetlands and riparian rights provisions administered by the MDE, and authorizes courts to order restoration of areas unlawfully disturbed.

Committee amendments drop provisions relating to nontidal wetlands and water pollution control and reduce the amount of the increases for fines. The companion bill, [HB 715](#), was heard by a committee this week.

The Senate has passed legislation to protect aquatic ecosystems and the productivity of State waters by authorizing the Department of Natural Resources (DNR) to issue regulations that prohibit the importation, possession, or introduction of nonnative aquatic organisms into State waters. [SB 287](#) also authorizes DNR to enter and inspect properties to determine if a “state of nuisance” exists, includes provisions relating to abatement, and establishes penalties. The bill’s amendments relate to damages caused by abatement and specify that the bill does not apply to permitted aquaculture operations.

FISCAL MATTERS

House and Senate committees are nearing completion of their hearings on budget, tax, and other fiscal legislation. The Budget Bill, [HB 40](#), is scheduled to come to the House floor next week. The House will also complete hearings on bond bills next week; the Senate, however, citing budget constraints, has not scheduled hearings on bond bills introduced in that chamber.

The 83rd day, the Constitutional deadline for passage of the Budget Bill ([HB 40](#)), is just two weeks away. Should the budget not receive General Assembly approval on or before March 31, the Governor will issue a proclamation extending the session beyond the 90th day, if necessary, to pass the budget. During the extension, only the Budget Bill and an appropriation for the extended session can be considered. All pending legislation including any pending budget reconciliation bill, the Consolidated Capital Bond Loan ([HB 140](#)), and bond bills will die at midnight on the 90th day. With final passage by both houses, the budget becomes law without further action and may not be vetoed.

At the end of the week, the Governor submitted a supplemental budget that reflects the recent Board of Revenue Estimates lower General Fund revenue estimates, as well as the reduction of \$230 million in proposed slot machine revenues. General Fund revenue estimates for FY 2003 are lowered by \$106.1 million and for FY 2004 by \$111.9 million. The supplemental budget eliminates the \$82.1 million General Fund appropriation for paying State bonds and increases the special fund appropriation from the State property tax by

\$192.3 million. The supplemental budget also assumes that \$106.1 million from the Revenue Stabilization Fund (Rainy Day Fund) will be transferred to the General Fund.

HEALTH CARE AND INSURANCE

The House has passed, on a preliminary floor vote, a heavily amended [HB 1](#) that provides a reimbursement fund for uncompensated trauma care. The fund will reimburse trauma care physicians, as well as trauma centers for their costs to provide on-call physicians. Revenues for the fund will come from a \$10 surcharge for the issuance or renewal of a driver’s license. The bill also establishes a panel to study and make recommendations about the State’s emergency medical response system.

[HB 702](#), also heavily amended in committee, has been given a preliminary green light. The bill no longer establishes a Medical Marijuana Research Program nor protects patients from arrest and prosecution. Instead, individuals who are being prosecuted for the use or possession of marijuana may introduce as a mitigating factor, evidence of medical necessity. The maximum penalty is a fine not exceeding \$100. The companion bill is [SB 502](#).

Mental health care legislation continues to move in both chambers. [HB 25](#), which has passed the House, creates a Task Force to Study Access to Mental Health Services. An amendment added the study of wages for health care providers to the other issues to be examined. The companion bill, [SB 252](#), passed the Senate with amendments. As passed on second reading, [HB 668](#) modifies the requirements for petitions for emergency evaluations of individuals with mental disorders to facilitate the commitment of those who pose a danger to themselves or others. The companion bill, [SB 273](#), passed the Senate last week.

Committee members received public comment this week on other mental health legislation. [HB 433](#) creates a Task Force on the Needs of Persons with Co-Occurring Mental Health and Substance Abuse Disorders. [HB 675](#) requires Medicaid to reimburse an outpatient mental health care “provider” the entire amount of the Medicaid program fee for outpatient mental health treatment provided to an individual eligible for both Medicare and Medicaid, including any amount ordinarily withheld as a psychiatric exclusion and any copayment not covered

under Medicare. Its companion is [SB 209](#). Similar legislation in previous sessions failed.

Other health-related bills before committees this week include:

- [HB 149](#), Vera's Law, to allow electronic monitoring at an institution such as a nursing home, by residents or their representatives, and to require a notice to be posted on the door of the room stating that the room is being electronically monitored. (The bill failed last session);
- [HB 1097](#) to allow electronic monitoring at nursing homes, but to require the nursing home itself to install the monitoring devices to assist in the monitoring of residents' safety at the residents' request;
- [HB 771](#), the Clean Indoor Act of 2003, to prohibit smoking in any indoor area or place of employment, as well as to increase the fines for smoking in nonsmoking areas. (The companion bill is [SB 261](#));
- [HB 830](#) to create the Maryland Quality Home Care Services Commission to improve the quality of personal home care services through regulation, increased accountability, and enhanced consumer ability to obtain home care services, as well as to work to better the working conditions of the providers. (Its companion is [SB 690](#)); and
- [SB 557](#), the Public-Private Partnership for Health Coverage for All Marylanders, to address the estimated 600,000 State residents currently without health insurance coverage. (The companion, [HB 726](#), failed in committee.)

The House approved an amended Small Business Health Insurance Affordability Act ([HB 2](#)), which reduces the premium rate affordability cap for the standard benefit plan from 12% to 10% of the average premium wage in Maryland. An amendment requires the Maryland Health Care Commission to report by December 1, 2003, the feasibility of creating a basic plan in addition to the standard plan in the small group health insurance market. The Senate has already passed its version of this legislation ([SB 477](#)).

[SB 537](#) that would have prohibited a physician, nurse practitioner, or pharmacists from accepting any gift greater than \$40 from a pharmaceutical manufacturing company or pharmaceutical marketer received an

unfavorable Senate committee vote. Its companion, [HB 548](#), is still pending in committee, as is [HB 188](#) requiring reporting by pharmaceutical companies of gifts made to health care providers.

Introduced in response to the recent decision by the Insurance Commissioner to reject CareFirst Blue Cross/Blue Shield's conversion to for-profit status and proposed sale to Wellpoint, [HB 1179](#) reforms current law which applies specifically to CareFirst's status as a nonprofit health plan. Provisions include a mission statement and commitment to the plan's nonprofit status, board of directors' membership of 15, board compensation based on comparable compensation paid to board members of similar organizations nationally, and term expiration for the current 21-member CareFirst board. Additionally, a 15 member Joint BlueCross and BlueShield Oversight Committee is established with specific reporting goals. Previously introduced, [HB 765](#), proposing a task force on the mission of CareFirst, is scheduled for a hearing on March 18.

HOUSING

The House has completed the public testimony phase of legislation relating to the Reduction of Lead Risk in Housing Program within the Maryland Department of the Environment (MDE). The bills include:

- [HB 589](#) to exempt outside surfaces of an affected property from the risk reduction standards under the Program, if the owner submits an inspection report to MDE that complies with specified requirements (Similar legislation last session stalled);
- [HB 714](#) to extend the existing rental subsidy under a "qualified offer" with respect to the Program to owner-occupied dwellings purchased by a tenant who is permanently relocated. The subsidy would cover the difference between the rent paid and the mortgage payment as well as closing costs (Similar legislation failed in previous sessions);
- [HB 720](#) to require a landlord to include in a written complaint when repossessing property, a statement that the requirements of the Housing Program have been satisfied;
- [HB 722](#) to require a local government agency to report to MDE any known property that is noncompliant with the Program; and

- [HB 872](#) to require a landlord to provide a statement on a lease agreement that the affected property is in compliance with the Program, to provide a certified inspection report upon request, and to provide a statement in a written complaint for repossession by the landlord that the property is in compliance with the Program.

SPORTS AND GAMING

Committee votes were unfavorable on the following legislation:

- [HB 746](#) would have required the Department of Health and Mental Hygiene to adopt regulations for youth baseball that designate the types of approved baseball gear and equipment that are appropriate to each position; and
- [HB 629](#) would have prohibited the Department of Natural Resources from establishing an open season to hunt black bears and from reducing the black bear population in any area of the state until July 1, 2009.

At this point in the session, only one of the slot machine measures has attained chamber floor consideration. [HB 800](#), establishing a Commission to Study Video Lottery Terminals in Maryland, passed the House on Friday. The Commission is composed of 16 members who will review and study the effects of authorizing the operation of video lottery terminals (slot machines) and submit a report by December 31, 2003.

STATE GOVERNMENT

Senators voted to set up a Task Force to Study Efficiency in Procurement. The task force will address the use of market-based procurement practices, outsourcing and privatization, the use of contracts where compensation is based on successful performance, the accountability of State officials who violate procurement law, rewards and incentives to State officials to encourage better procurement results, and greater centralization of the procurement system. A report is due to the Governor and General Assembly by the end of this year ([SB 492](#)).

Quite a number of other bills related to procurement are before the General Assembly this session. Action has occurred on:

- [SB 473](#) (passed the full Senate) to include processed and pasteurized chicken litter in the definition of recycled materials that receive a price preference in State procurement of goods (The companion is [HB 325](#));
- [SB 527](#) (passed a preliminary Senate floor vote) to create a Minority Business Participation Advisory Committee to review the performance of State agencies in meeting the Minority Business Enterprise (MBE) program goals, identify strengths and weaknesses of the State's MBE program, and recommend measures to improve the program. Amendments specify that at least one member of the committee be Hispanic and that the disparity index be evaluated; and
- [SB 82](#) (unfavorable committee vote) to establish a 2% minimum as the goal for the total value of procurement contracts to be awarded to certified Hispanic-owned businesses.

[SB 608/HB 403](#) expand the scope of the State Whistleblower Law to include judicial and legislative branch employees and require specified protections and remedies for those employees, as well as for employees of State contractors and subcontractors. The bills are effective July 1, 2003, and apply retroactively to January 1, 2003, for any personnel action taken as a reprisal against any State government or contractor employee who discloses information about an abuse of authority, gross mismanagement or waste of money, a substantial specific danger to public health or safety, or a violation of law that occurred on or after January 1, 2003.

The General Assembly passed the Maryland Whistleblower Act in 1980 (Chapter 850) to protect executive branch employees from retaliation for reporting violations of State law, following passage of similar federal legislation in 1978. Even though current Whistleblower law does not cover employees in the judicial and legislative branches, other State statutes prohibit reprisals against State employees of all branches during any stage of an employee's complaint, grievance, or other administrative or legal action. State employees of all branches may also file a lawsuit asserting a retaliatory discharge for whistleblowing under the First Amendment or the 1871 Civil Rights Act (42 U.S.C 1983).

At present, there is no specific offense of making a false representation to a unit of the legislative branch. [SB 26](#), scheduled for a House committee hearing at the end of

this month, provides that it is a misdemeanor to make a false statement, conceal a material fact, or make false representations in a recorded proceeding to a unit of the legislative branch of the State government. The bill applies only to a hearing or other proceeding that is required to be recorded by the rules of the House or Senate. Violators are subject to maximum penalties of a fine of \$1,000 and/or imprisonment for one year. Similar bills were introduced in 2000, 2001, 2002, and for many years prior to the 2000 session.

Following the recommendation of the Senate Executive Nominations Committee to reject the Governor's nominee for Secretary of the Department of the Environment, the full Senate voted 26-21 on Tuesday to deny the post to the candidate. Opponents contended that the nominee did not have the appropriate credentials to hold the position. All other nominees for gubernatorial Cabinet posts were successfully vetted by the Senate under the "advice and consent" provisions of the Maryland Constitution.

Also related to the executive branch cabinet, legislation to change the name of the Department of Juvenile Justice (DJJ) to the Department of Juvenile Services mirrors the Governor's juvenile services reform efforts that focus on "wraparound" services for children who come in contact with the system. Under "A Child First Approach," children will receive a thorough needs assessment when they enter the juvenile justice system and will be provided enhanced mental health and substance abuse treatment while they are in the system (SB 390/HB 860).

The bills also respond to a recent audit of DJJ that revealed numerous problems, including very significant issues in the educational services, at the Charles H. Hickey, Jr. School, one of the juvenile facilities DJJ manages. Under the measures, on December 31, 2003, the Maryland State Department of Education (MSDE) will assume control of the educational program at Hickey. DJJ must work with MSDE to facilitate the full implementation of the educational program and to make students available during scheduled class time. Both bills have been aired in committee.

TRANSPORTATION

A measure was killed in committee that would have increased from 3 to 5 the number of points assessed against a driver who fails to stop for a school vehicle that is stopped with activated flashing red lights. In addition, SB 370 would have increased from 2 to 5 the number of points assessed against a driver who failed to remain stopped and increased the maximum fine for both violations from \$500 to \$1,000.

Pending in committee, SB 379 requires that a person involved in a motor vehicle accident resulting in death or a life-threatening injury to submit to two tests to determine alcohol and drug use if a police officer has reasonable grounds to believe that the person is impaired by alcohol and/or drugs. The measure removes the current requirement that the officer detain the person tested.

Killed in committee, HB 249 would have extended 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 been given probation for a subsequent alcohol and/or drug related violation or homicide or life-threatening injury by a motor vehicle. The companion measure, SB 94, is still pending in its respective committee.

Another measure voted down in committee (SB 246) would have eliminated the use of traffic control signal monitoring systems (red light cameras), 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.