



# The Legislative Wrap-Up

Library and Information Services, Department of Legislative Services

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(Click on Issue above for previous Wrap-Ups)

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

On Friday, February 27, the 2004 session passed the half way point in its 90 day existence. Deadlines in March related to the ongoing legislative process include:

- Monday, March 8, the 55<sup>th</sup> day or the final date for the introduction of bills without suspension of the Senate and House rules;
- Tuesday, March 23, the 70<sup>th</sup> day or the Committee Reporting Courtesy Date by which each Chamber's committees to report their own bills by this date; and
- Monday, March 29, the 76<sup>th</sup> day or the Opposite Chamber Bill Crossover Date by which each chamber is to send to the other Chamber those bills it intends to pass favorably. Opposite Chamber bills received after this date are subject to referral to the Rules Committees.

At the half way point, 2,379 bills and 20 resolutions are in the legislative pipeline. There are 901 Senate bills and 9 Senate resolutions, along with 1,478 House bills and 11 House resolutions.

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## COURTS AND JUDICIAL PROCEEDINGS

Immigrant rights legislation rejected by a committee this week includes:

- [HB 7](#), which would have prohibited the use of a consular registration card as proof of identity for foreign residents unless accompanied by a valid visa or permanent resident card;
- [HB 579](#), which would have prohibited a requirement that a police officer enforce federal immigration laws, and prohibited police from detaining an undocumented immigrant without meeting current warrantless arrest requirements or from searching for undocumented immigrants for the sole purpose of detaining them; and

- [HB 89](#), which would have required police officers to detain undocumented aliens who have been taken into custody pursuant to the performance of the officers' normal duties, and hold them until they can be transferred to federal immigration agency custody. Police would not have been allowed to search for undocumented aliens solely for the purpose of detaining them.

Recent events across the country that have called into question same-sex marriages were magnified in a House committee hearing this week. [HB 16](#) proposes a constitutional amendment to define marriage as being between a man and a woman. Its companion bill, [SB 673](#), will be heard by a Senate committee on March 10. [HB 728](#), heard on the same day in the same committee, provides that same-sex marriages validly entered into in other states or countries are not valid in Maryland and that same-sex marriages are against the public policy of Maryland. The companion measure, [SB 746](#), will be heard on March 10.

The Senate approved the amended Judicial Compensation Commission Report ([HJ 1](#)) that retains current salaries for all State judges for fiscal 2005 and 2006 and subjects them to any cost-of-living salary increase that may be awarded to other State employees. Companion [SJ 1](#) passed the Senate in the same form.

[SB 78/HB 148](#), each passed to the opposite chamber in identical form, remove the requirement that the surviving spouse of a judge who retired on a disability pension must be age 50 or older to receive the 50% benefit from the Judges' Retirement System.

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## CRIMES, CORRECTIONS, AND PUBLIC SAFETY

[SB 257](#) and [SB 837](#) simplify the prosecution of identity fraud and counterfeiting fraud involving private instruments or documents, respectively. Both bills authorize a state's attorney or the Attorney General to investigate and prosecute these crimes in any county where an element of the crime occurred, where the victim resides, or in the case where the victim of the

counterfeiting fraud is not an individual, where the victim conducts business. When prosecuting a fraud, the Attorney General is given all the powers and duties of a state's attorney, including the use of a grand jury. Current law requires separate trials in each jurisdiction in which an element of the crime occurred. Under the proposals, these trials could be consolidated into one trial when they involve the same victim and the same defendant. Further, [SB 837](#) broadens the felony of counterfeiting a private instrument with fraudulent intent to include checks, letters of credit, and negotiable instruments, and creates the misdemeanor crime of possession of a counterfeit instrument with fraudulent intent, with a maximum penalty of three years in jail and a \$1,000 fine. [SB 257](#) passed the Senate this week, and [SB 837](#) is scheduled to be heard later next month.

[HB 623](#), scheduled for a hearing in three weeks, expands the definition of criminal stalking to include stalking by mail, the Internet, telephone, telecommunications device, or fax. Stalking, a malicious course of conduct intended to place a person in reasonable fear of serious bodily injury, assault, actual or attempted sexual offense, false imprisonment, or death to that person or a third person, is a misdemeanor, punishable by up to five years in jail and a \$5,000 fine.

Testimony was heard last week on bills ([SB 719](#) and [SB 342](#)) that would make it illegal for anyone other than the owner of a car to duplicate the car's key. At present, anyone can take a car's VIN (the vehicle identification number that is displayed on a car's windshield) to a key duplication service that may not be highly reputable, and walk away with an ignition key to that car. [SB 719](#) requires a person who makes a car ignition key to demand proof of car ownership and identification from the person requesting the key, but does not apply to a person who makes a key by duplicating another key.

[SB 719](#) and [SB 342](#) make it a crime to possess a key to someone else's car or request its duplication with the intent to commit motor vehicle theft, with a penalty of up to a year in jail and a \$1,000 fine. [SB 342](#) also requires a person who makes a car ignition key to get the signature of the person requesting the key and record identifying information about the individual, the car, the date the key was made, and the person making the key. Persons making a key by duplicating another key are exempt. The civil penalty for noncompliance is a fine of \$500 for the first offense and \$1,000 for each subsequent offense.

[HB 118](#), requiring police interrogations in connection with a capital case to be electronically recorded, failed a committee vote.

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## ECONOMIC AND BUSINESS ISSUES

### *Business*

Several measures related to the State's minority business enterprise program received hearings this week. Under current law, the State has a goal of awarding 25% of contracts to certified minority business enterprises (MBE). Certification as an MBE requires that the person, or majority owner of a business, be socially and economically disadvantaged. Qualifying individuals are citizens or lawfully admitted permanent residents of the U.S. who are: (1) African American; (2) American Indian/Native American; (3) Asian; (4) Hispanic; (5) physically or mentally disabled; (6) women; or (7) otherwise found by the certification agency to be a socially and economically disadvantaged individual. An economically disadvantaged individual is defined as a socially disadvantaged individual whose ability to compete in the free enterprise system has been impaired due to diminished credit and capital opportunities compared to other individuals in the same or similar line of business who are not socially disadvantaged. An individual with a personal net worth of more than \$750,000 is not an economically disadvantaged individual. MBE directed legislation includes:

- [HB 483](#), increasing the maximum net personal worth from \$750,000 to \$1.5 million for an individual, who otherwise meets the criteria to be considered a socially and economically disadvantaged individual;
- [HB 721](#), requiring the Department of General Services to develop and maintain a directory of minority business enterprises in the State; and
- [HB 724](#), exempting MBE prime contractors from MBE goals for procurements contracts valued below \$200,000. MBE small businesses, currently unable to meet the goals of the program when bidding as prime contractors, may be able to bid on more contracts.

Related proposals ([SB 323/HB 806](#)), scheduled for committee hearings next month, require recipients of assistance under the Economic Development Opportunities Program Fund and the Maryland Economic Development Assistance Authority and Fund

to comply with certain minority business enterprise procurement goals under certain circumstances.

The Senate sent legislation that creates an Equal Pay Commission to study the extent of wage disparities, in both public and private sectors, between men and women, and between minorities and nonminorities. The commission will recommend solutions to the General Assembly leadership and the Governor ([SB 250](#)). Last session a similar measure failed.

Sent to the Senate this week, [HB 663](#) expands the uses of the Historic Preservation Loan Fund of the Maryland Historical Trust (MHT) to authorize loans for refinancing historic properties. (Under current provisions, MHT loans may be used for acquiring, rehabilitating, or restoring historic properties, which are defined as those listed on, or eligible for, the National Register of Historic Places. Similar legislation passed the House last year).

### *Occupations*

Occupational and professional licensing provisions for home improvement contractors, real estate brokers, home inspectors, examining engineers, glass technicians, insurance salesmen, and docking masters are under consideration this session. Legislation related to home improvement contractors:

- requires home improvement contractors or subcontractors to be trained in lead abatement and after October 1, 2005, to meet State accreditation requirements for lead abatement ([HB 1241](#) is to be heard next month); and
- prohibits an unlicensed home improvement contractor from bringing or recovering on an action for compensation in a State court. Anyone working as a home improvement contractor in the State must be licensed. (Both bills, [SB 244/HB 461](#), were heard by a committee this month).

This week, discussion in a House committee of proposed adjustments to Maryland real estate regulation focused on:

- allowing the State Commission of Real Estate Appraisers and Home Inspectors to impose a civil monetary penalty of up to \$5,000 for each violation in addition to or instead of reprimanding a home inspector licensee or suspending or revoking a home inspector license ([HB 883](#)); and

- expanding current licensing requirements for a real estate salesperson, associate broker, or broker to include a three clock-hour course in real estate ethics approved by the State Real Estate Commission. The bills, [SB 561/HB 1249](#), also make changes in the continuing education requirements of licensees. (The Senate bill is to have a hearing next month.)

Still other legislation touches on other occupations:

- [HB 1093](#) creates a statewide Board of Examining Engineers and provides for the transition from the existing board with narrow regulatory authority in Baltimore City to a new board with statewide jurisdiction. (The House hearing was on Thursday);
- [HB 1097](#) establishes a State Board of Glass Technician Examiners to regulate those who provide automotive glass work or glazing services in residential or commercial structures (no hearing date as yet);
- [SB 584/HB 177](#) require anyone licensed to sell real property and casualty insurance and who also sells flood insurance to receive continuing education related to flood insurance. (Both bills are in the Senate, which will hold a hearing on its bill next month); and
- [HB 884](#) transfers licensing of docking masters to the State Board of Pilots and abolishes the State Board of Docking Masters. The bill includes provisions for the transfer of current docking master licensees to pilot licensees, authorizes the board to establish training, experience, and education requirements for bay pilots and docking masters to perform tasks now performed by each other, and establishes an Incident Committee. (The hearing was on Thursday.)

### *Utilities*

The Senate's "do not call" registry bill passed that body this week. [SB 88](#) provides that a violation of the federal Telemarketing and Consumer Fraud and Abuse Prevention Act or the federal Telephone Consumer Protection Act (the "do not call" registry) is an unfair or deceptive trade practice under State law. Under the proposal a person affected by a violation may bring action against the violator. The bill, as amended, does not apply to telephone calls for charitable institutions.

House bills, [HB 2](#) and [HB 487](#), related to "do not call" but with differing provisions, received hearings this

week. Both provide for the enforcement of the federal “do not call” registry under State law and allow the Attorney General to enforce the “do not call” registry in State courts and permit a private right of action. The House also took testimony on [HB 107](#) that requires a customer to give prior authorization before a telephone company may include a charge on behalf of another business or entity on a customer’s bill. The Senate companion bill, [SB 126](#), was withdrawn by its sponsor.

This week a Senate committee gathered comments on a pilot program for underground conversion of overhead electric and communication lines along the U.S. Route 1 corridor in Howard and Prince George’s Counties. The goal of [SB 622](#) is to obtain an accurate assessment of the direct and indirect costs of converting overhead lines to underground in urban and suburban areas. Recent significant interruptions in electric and communications services highlight the vulnerability of overhead lines to storms and other natural occurrences. The bill provides that the conversion should begin on or before July 1, 2007, and that the costs of the conversion be borne by all customers of the public service company or other facility undertaking the conversion.

Also before committee members this week, a Senate bill, [SB 491](#) allows the Public Service Commission (PSC) to order an electric company to compensate customers for some losses due to power outages of more than 24 hours and another measure, [SB 654](#), establishes an Energy-Saving Investment Fund, funded by a charge to residential electric and gas customers, to increase the opportunities to save energy, reduce energy costs, and pollution, and improve service reliability for customers.

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## EDUCATION

In light of questions about the constitutionality of the “trigger” provision in the Thornton Plan (Bridge to Excellence in Public School Act of 2002, Chapter 288), the full Senate passed [HB 345](#), which repeals the provision. The 2002 bill reworked the State education funding formulas to increase State aid to education over a six-year period. Because of an unsure fiscal outlook, an amendment was added that required the General Assembly to pass a joint resolution or trigger provision by the fiftieth day of the 2004 session in order to proceed with the full implementation of the Act.

Committee hearings took place this week on legislation addressing higher education funding issues:

- [SB 112](#) requires the Governor to include in the fiscal 2006 budget specific appropriations for the University System of Maryland, Morgan State University, and St. Mary’s College of Maryland, mandates an annual increase for the institutions of at least 5% per full-time equivalent resident student beginning in fiscal 2007 and also reduces tuition rates for the 2004-2005 academic years and limits future tuition increases to 4% annually. (The companion bill, [HB 1103](#), will be heard next week);
- [SB 473](#) prohibits the Board of Regents of the University System of Maryland from approving and a University of Maryland constituent institution from imposing increases in tuition and fees that exceed the rate of inflation. (The companion bill, [HB 66](#), will be heard next week); and
- [SJ 9](#) establishes a Commission to Study Maryland’s Commitment to and Funding of Higher Education. The commission is to make recommendations relating to a consistent and stable funding mechanism that will allow Maryland institutions of higher education to ensure accessibility and achieve national eminence.

The public also provided testimony on bills related to the Maryland Teacher Scholarship Program:

- [HB 630](#) alters the service obligation for the Maryland teacher scholarship by changing the current law that requires a recipient to work for one year in a public elementary or secondary school for each year of scholarship, to require a recipient to work for five years as a full-time teacher in a Maryland public school in a content or geographic shortage area, in a school that receives Title I funds, or in a school identified for school improvement, reconstitution, or corrective action. (The Senate companion bill, [SB 266](#), will be heard next week); and
- [HB 1164](#) allows a scholarship recipient to perform the required service obligation as a teacher in a nonpublic elementary or secondary school that holds a certificate of approval from the State Board of Education or is registered with the State Board of Education. (The companion bill, [SB 17](#), was before a committee earlier in the session).

The Public School Facilities Act ([HB 1230](#)) implements many of the recommendations of the Task Force to Study Public School Facilities. The legislation includes additional State and local funding for public school construction and alternative methods to finance school construction projects and states that it is the intent of the Governor and the General Assembly that a minimum of \$3.5 billion be provided to fund school facility needs by fiscal 2013. Of this amount, the State is to provide \$2 billion and local governments are to provide \$1.85 billion over the next eight years. No hearing date has been set for companion bill, [SB 787](#).

A House committee killed [HB 359](#), which would have mandated that each public school have a physical education program for all students, K-12, requiring five hours per week during the school year. [HB 346](#), also defeated by a committee, would have established a school nutrition program to encourage local public school systems to serve more fresh fruits and vegetables, eliminate fried foods, and review portion sizes.

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## ELECTIONS AND ETHICS

Early next week a number of bills related to the financial disclosure statements under the Maryland Public Ethics Law will be up for a hearing. The measures deal with sources of earned income ([HB 608](#)), real property disclosure ([HB 609](#)), encumbrances on real property ([HB 610](#)), public examination ([HB 611](#)), additional information ([HB 650](#)), and interest in corporations and partnerships ([HB 716](#)).

Both bills ([SB 105/HB 329](#)) that alter the circumstances under which a convicted felon may register to vote are waiting for committee decisions.

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## ENVIRONMENT, NATURAL RESOURCES, AND AGRICULTURE

A measure that establishes the procedures that the Department of Natural Resources (DNR) must follow to completely close an area of State waters to all finfishing is moving through the legislature. [HB 202](#) and [SB 13](#) are both in their opposite chambers.

Testimony has been taken on [SB 184](#) and [HB 288](#) that create a Chesapeake Bay Recovery Fund in DNR, which will be allowed to solicit, accept, and expend gifts to the fund to support projects to restore the bay and its tributaries.

[HB 555](#) and [SB 320](#) create the Chesapeake Bay Watershed Restoration Fund in the Department of the Environment to assist local governments in upgrading sewage treatment plants. The fund will be supported by the imposition of an environmental surcharge on users of wastewater facilities. A hearing is scheduled for [HB 555](#) on March 3 and for [SB 320](#) on March 11.

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## FINANCIAL INSTITUTIONS AND COMMERCIAL LAW

The House is moving toward passage of its version ([HB 455](#)) of legislation that repeals a sunset provision for legislation enacted in 2000 regarding late fees for consumer contracts including a cap on the imposition of such fees.

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## FISCAL MATTERS

The major budget-balancing bills all have hearings scheduled for next week: [SB 508/HB 869](#), the “Budget Financing Act of 2004,” [SB 509/HB 870](#), “Fund Transfers Act of 2004,” and [SB 510/HB 871](#), the “Budget Reconciliation Act of 2004.” The Senate bills are scheduled for March 3 and the House bills for March 5.

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## GAMING, RACING, AND SPORTS

A heavily amended [SB 197](#) authorizing video lottery terminals (slot machines) passed third reading in the Senate on Friday. The bill provides for a total of 15,500 slot machines in the State at six locations: two racetrack locations that are not in rural areas, one racetrack that is in a rural area, and three non racetrack locations. A Video Lottery Facility Location Commission is to award licenses based on eligibility criteria that includes specified locations. For a license at a racetrack, the facility must be located at Laurel Park in Anne Arundel County, Pimlico in Baltimore City, Rosecroft in Prince George’s County, or at a horse race course in Allegany County. For a license at a non racetrack facility, the facility must be located in Baltimore City, Prince George’s County, or Cecil County. The bill also prohibits the award of a license within a four-mile radius of another licensed facility.

Additionally, the slots bill establishes an expanded State Lottery Commission to provide regulatory and oversight

authority for the slot machines that are to be owned or leased by the commission. From the racetrack locations revenue is to be distributed as follows: to video lottery terminal licensees the percentage in the bid but not to exceed 36%; to local governments in which a video lottery terminal is operating 5%; to the purse dedication account 10% of the gross; and to the State for the Education Trust Fund the remainder to fund the Thornton plan. For non racetrack locations the revenue is to be distributed as follows: to video operation licensees, the percentage in the bid but not to exceed 30%; to local governments in which a video lottery facility is operating 5%; and to the State for the Education Trust Fund the remainder to fund the Thornton legislation.

A House committee listened to commentary on [HB 633](#) which broadens the definition of commercial athletic contest by repealing limiting language and specifies that a person may not attempt to disrupt or interfere with a contest by throwing an object, as opposed to disrupting or interfering with such a contest by throwing an object on the playing field or seating area. The companion bill, [SB 354](#), is on a Senate committee's agenda for next week.

[HB 619](#) modifies provisions regarding the reporting of deer killed. The bill provides that every person killing a deer must report with the unskinned deer or the fresh skin and head of the deer to a designated checking station within 24 hours after killing the deer. The bill repeals prohibitions regarding the removal of the head or hide or any part of the deer until the deer has been checked at a designated checking station.

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## HEALTH CARE AND INSURANCE

Introduced this week, [HB 1459](#) prohibits the Mental Hygiene Administration from closing, downsizing, consolidating or selling the Crownsville Hospital Center before June 1, 2006. The bill also requires a study regarding the impact of closing the Center as well as the best future use of the hospital grounds.

[SB 140](#), the Clean Indoor Air Act of 2004, received an unfavorable committee report. The bill would have prohibited a person from smoking in all indoor areas open to the public and places of employment, including restaurants and bars. No committee action has been taken on the companion bill, [HB 260](#). Similar legislation in past sessions failed.

Hearings were held this week in the Senate and House on bills addressing the nearly 700,000 uninsured Marylanders:

- [SB 737](#), Public-Private Partnership for Health Coverage for All Marylanders extends health insurance coverage to Maryland's uninsured with funding from an employer payroll tax and an increase in the cigarette tax of 50 cents per pack. (The companion bill, [HB 1008](#), is scheduled for a hearing next week); and
- [SB 715/HB 1271](#), Access to Health Care and Community Health Care Safety Net Act of 2004, establishes the Maryland Community Health Resources Commission (CHRC) to increase access to health care for lower-income individuals and provide resources to community health centers around the State. In addition, the bills mandate that Medicaid provide primary and specialty health care services for adults whose annual income is at or below 100% of the federal poverty level guidelines (FPG). Funding sources include money from requiring HMOs and Medicaid managed care organizations to pay the 2% premium tax that other for-profit carriers must pay and imposing a payroll tax on nongovernmental employers that employ more than 10,000 employees.

This week, delegates also listened to commentary on another measure ([HB 270](#)) that will also subject currently exempt HMOs and Medicaid managed care organizations to the 2% premium tax imposed on for-profit insurance carriers. The imposition of the insurance premium tax had been part of [HB 753](#) from last session that was vetoed by the Governor. If the tax is imposed, general fund premium tax revenues could increase by as much as \$47 million in FY 2005.

Several bills with high visibility heard this week respond to the increase in medical malpractice premium rates. [SB 545](#) specifies that if an insurer charges different rates for different medical specialties or combinations of specialties, the base rate paid by the highest-rated medical specialty or combination of specialties may not be greater than 600% of the base rate paid by the lowest-rated medical specialty or combination. Under this plan, rates for OB/GYN physicians could be significantly reduced. Excessive medical malpractice insurance premium rates are also the subject of [SB 438](#) and [SB 436](#). Another measure, [SB 708](#), requires each insurer that writes medical malpractice policies in the State to offer, in addition to a basic policy, additional policies

with deductibles of \$10,000, \$25,000, and \$50,000. The Administration's medical malpractice reform legislation ([SB 193/HB 287](#)) which caps noneconomic damages at \$500,000 will have committee hearings next week.

Two proposed health insurance mandates received an unfavorable committee vote this week. One measure would have expanded child wellness services to cover obesity treatment ([HB 340](#)), and another would have provided that policies that provide coverage to an insured's or member's family member also to provide coverage, upon request, to the insured's or member's parent, or the spouse's parent ([HB 115](#)).

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## STATE GOVERNMENT

[HB 299](#), with 63 delegates as sponsors, creates a new Department of Disabilities. The bill is scheduled for a hearing next Tuesday. Earlier this month, Senate committee members gathered public comment on the companion, [SB 188](#), which has 25 Senate sponsors.

The Open Meetings Act ([SB 87/HB 73](#)) bills are in their opposite chambers, but no hearings are scheduled as yet. The bills authorize any person to file a petition with a circuit court to determine the applicability of open session meeting requirements, rather than authorizing only a person adversely affected to file, as is the case currently.

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## TRANSPORTATION

Proponents of the Administration measures, [SB 898/HB 1467](#), just introduced this week, expect to reap additional millions of dollars annually to enhance efforts to improve Maryland's highways and transit network systems. By adding the legislation's user fee profits to the expected \$10 million from the Transportation Trust Fund's share from the Delaware Holding Company Settlement, and the \$54 million from higher than expected titling tax receipts, motor fuel tax receipts, and additional bonding capacity projected for the six-year period, advocates say \$320 million will be generated. The legislation specifically is expected to raise:

- \$153 million through an adjustment to the annual base vehicle registration fee. Cars will pay an additional \$23.50 per year and trucks will pay an additional \$36.00 per year;

- \$11 million through the application of a \$200 surcharge attached to each Driving Under the Influence or Driving While Intoxicated conviction;
- \$40 million through the application of a \$50 surcharge attached to each conviction of a moving violation;
- \$20 million through an increase in miscellaneous Motor Vehicle Administration (MVA) fees, including an increase in the MVA's ability to recover more of its costs associated with the program that assists local jurisdictions in collecting parking fines and fines for other violations; and
- \$32 million through dedicating a full 100% of the rental car sales tax to the Transportation Trust Fund.