



# The Legislative Wrap-Up

Library and Information Services, Department of Legislative Services

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## COMMITTEE HEARINGS AND DELIBERATIONS

At this stage of the legislative process in Annapolis, committee hearings and deliberations are in high gear. Committees, sometimes called the “heart” of the process, stand at the center of lawmaking for the General Assembly, in part, because this stage of a bill’s progress is crucial. Unfavorable committee action usually ends a bill’s chance of becoming law. Additionally, committees are an efficient means to process the large number of bills (2,456 to date in 2004) introduced during a session; hence the principal standing committees, the committees that hear and vote on bills and resolutions, are also known as the “workhorses” of the General Assembly.

And just as importantly, it is in these committee meetings that the public may express their opinions in open hearings. The committees meet daily, usually in the afternoons, to receive testimony. The *Committee Meetings and Hearing Schedule* issued weekly, with addenda as needed, lists the bills to be heard each day. At the bill hearings, the committee takes testimony from the bill’s sponsor and anyone else supporting or opposing the bill. Amendments to the bill may also be proposed during the hearings.

Voting sessions, which are also posted in the *Hearing Schedule*, are held at a separate time from the bill hearings. Committee members discuss and debate proposed legislation and consider amendments. After discussion, formal votes are recorded. Bills voted out favorably or favorably with amendments are sent to the floor of the Senate or House for consideration. A bill that fails in committee must be reintroduced during the following session, unless in rare circumstance it is petitioned out of committee. Bills may also be recommended for interim or summer study.

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## COURTS AND CIVIL PROCEEDINGS

With final Senate approval, [SB 316](#) moves to the House. The legislation increases funding received by the Maryland Legal Services Corporation (MLSC) through surcharges assessed in circuit court and District Court

civil actions. The surcharge rises from \$10 to \$40 per case in the circuit court and from \$2 per case to \$5 per summary ejectment case and \$17 per case for all other civil cases in the District Court. MLSC finances organizations that provide civil legal services to indigents such as the Legal Aid Bureau, House of Ruth, and the Maryland Volunteer Lawyers Service. The companion bill, [HB 706](#), is before a House committee next week.

Piscataway Indians of Maryland presented testimony this week on [SB 733](#), renewing their quest to gain state-recognized Maryland Indian status. In September, the Governor rejected the Piscataway Conoy group’s petition to become Maryland’s first officially recognized tribe. The proposed legislation removes the Governor from the approval process and provides that a tribe is entitled to Maryland Indian status if the tribe complies with certain prescribed criteria and the Maryland Commission on Indian Affairs determines that the tribe deserves the status. State recognition would make members eligible for federal aid, health benefits, and the right to seek minority status in government contracts. Opponents argue that State recognition could lead to federal recognition and the establishment of an Indian gambling casino.

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## CRIMES, CORRECTIONS, AND PUBLIC SAFETY

On Friday, the House approved legislation to establish a Task Force to Study Identity Theft ([HB 191](#)). The final report is to be submitted by December 31, 2005, after a study of the problems associated with identity theft in Maryland and privacy laws in other jurisdictions, public education, and effective government policies and practices to deter and reduce the crime. An interim report is due by December 31, 2004. A Senate committee hearing for the companion bill, [SB 325](#), is set for next week.

Bills that would have allowed an identity theft victim to expunge the victim’s court or police record that resulted from the illegal use of the victim’s identity ([HB 190](#) and [HB 255](#)) failed in committee this week. [HB 255](#) also

would have created a procedure for a victim to request a consumer reporting agency to block the reporting of information that is erroneous because of an identity fraud violation. The Attorney General would have been authorized to issue an identity fraud passport to be accepted as evidence of identity by police officers and others who may challenge the victim's identity.

The Responsible Gun Safety Act of 2000 requires a handgun manufactured on or after January 1, 2003, and offered for sale in Maryland to have an integrated mechanical safety device. [SB 547](#), before a Senate committee this week, loosens the gun lock requirement. The bill expands the definition of an integrated mechanical safety device to include not only a built-in locking device, but also a lock that is capable of being placed into a handgun that is integrated into or becomes integrated into the handgun after locking or activation and can be deactivated by opening with a key or unlocking a combination lock. This would include a cable lock or a lock added to a handgun after original manufacture. There is only one firearms manufacturer based in Maryland, and that manufacturer does not produce gun models with the locking mechanisms required under current law.

Hearings are scheduled for later this month on [HB 414](#) and [HB 652](#) that repeal the integrated mechanical safety device requirement for handguns sold in Maryland. [HB 414](#) also repeals the external safety lock requirement for handguns.

Over the last several years, the treatment of youths and the conditions of facilities within the Department of Juvenile Services (DJS) have been in the news frequently. In particular, reports on the Charles H. Hickey, Jr. School and Cheltenham Youth Facility have cited numerous problems including child abuse, violence, overcrowding, a lack of appropriate services, and understaffing. Currently, the U.S. Department of Justice is investigating conditions at Hickey and Cheltenham. The investigation, which began in August 2002, focuses on the physical safety of residents, as well as the health and educational services provided at the facilities.

In response to these conditions and other problems within the system, bills ([SB 768/HB 1083](#)) before the Assembly reorganize and regionalize juvenile detention facilities and delivery of services within the State. A House committee heard testimony this week on [HB 1083](#). A hearing has not yet been scheduled for [SB 768](#).

The legislation establishes at least five operational regions within the State, each with a regional director. Other provisions:

- establish within each region at least one detention facility, a sufficient number of committed facilities, and step-down aftercare;
- require each region to develop a facilities plan and a volunteer mentoring program, and conduct an outcomes evaluation for each facility and report findings annually;
- require, by January 1, 2008, each committed facility to hold no more than 40 youths, include an education center, and be geographically remote and distinct from other facilities;
- require facilities to be operated by the State or by a private provider that holds an existing contract if the facility meets the new requirements;
- authorize the juvenile court to order child support payments to be made to DJS, and require surplus income generated by State Use Industries to be dedicated to DJS facilities;
- restrict the use of detention facilities to juveniles who are detained while awaiting disposition or awaiting placement following disposition; and
- restrict the length of stay in a detention facility to 25 days after disposition, with a possible 25-day extension by the juvenile court if needed for appropriate placement.

Another comprehensive proposal to hasten the reform of the juvenile justice system, [SB 543](#), elicited public commentary last month and awaits Senate committee action.

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## **ECONOMIC AND BUSINESS ISSUES**

### *Insurance*

[HB 15](#) amends current law regulating public adjustors who investigate, adjust, or appraise claims for loss or damage covered by insurance for real or personal property but do not handle claims covered by motor vehicle insurance. The bill, now in the Senate, allows business entities to be licensed as public adjustors, alters

qualifications for licensure, includes provisions regarding licensing of nonresidents, and adds penalties for failure to obtain a license. The companion measure, [SB 586](#), will be in a hearing next week.

Also scheduled for a public hearing next week, [SB 582](#) requires the Commissioner of Insurance to establish a mediation process in the Maryland Insurance Administration (MIA) between a consumer and insurer for settlement of claims and a determination of loss value of property. The same committee will also take testimony on [SB 546](#), which creates the office of People's Insurance Counsel in MIA and a special fund, collected from insurance providers, to pay the operating costs of the new office. Appointed by the Governor for a 3-year term, the Counsel is to represent insurance consumers in matters pending before the Insurance Commissioner and in proposed rate increases of 10% or higher, if the rate is determined to be excessive. The Counsel also is to conduct investigations and request the Commissioner to initiate proceedings to protect the interest of consumers.

### *Utilities*

Committees in both houses heard public statements on [SB 12/HB 23](#), which allow a county or municipal corporation to act as an aggregator to purchase electricity for residential, retail, and small commercial electric customers. To act as an aggregator, the county or municipality must apply to the Public Service Commission (PSC), which must determine if less than 20% of residential, retail, and small commercial electric customers in the jurisdiction have selected a supplier other than the standard offer service supplier. Similar legislation failed in the last days of the 2003 session. Under current law a county or a municipal corporation can act as an aggregator for electricity services, if the PSC determines that there is insufficient competition within its boundaries.

Also subject to committee scrutiny recently, [SB 739/HB 1056](#) limit increases in base electric rates for standard offer service to 10% per year. The bills allow the electric company, through a standard offer service transition charge, to recover any difference between the actual rate and the 10% cap over a 4-year period.

Another bill under a committee's spotlight, [HB 81](#) requires electric companies to create and maintain a list of customers that need special medical equipment for life support or to live independently. The electric company's service dispatchers will use the list in

restoring service, so that customers on the list will receive priority when an unscheduled outage occurs. These customers, whose need must be certified by a physician, must also be notified at least 48 hours before a scheduled outage occurs.

Delegates also heard testimony on [HB 1308](#) to implement a renewable energy portfolio standard that applies to retail electricity sales in Maryland beginning in 2006. Provisions of the bill establish a Maryland Renewable Energy Fund and a renewable credit trading system. As stated in the bill, benefits of electricity from renewable energy resources include decreased emissions, healthier environment, increased energy security, and decreased reliance on imported energy sources. Renewable energy resources may include wind, geothermal, solar, forest and agriculture-related sources from yards, brush, pallets, tree crops, vineyards, grains, plants cultivated exclusively for use as a renewable source, or gas produced from poultry waste. The companion bill, [SB 869](#) is not yet on its committee agenda.

Marylanders testified this week on [HB 1269](#), which expands the net energy metering program to include wind electric generating facilities, as well as solar generating facilities. The bill further expands net energy metering by removing the limitations that restrict it to single-family residences, schools, or institutions of postsecondary education. Similar proposals in past sessions failed to gain committee approval.

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## EDUCATION

In this topic area, committees were very busy. This week public testimony addressed several issues related to higher education:

- [SB 430](#) changes the legal status of Morgan State University from a State agency to become a public corporation and an independent unit of State government with broadened procurement authority. (A hearing has been set mid-month for the companion bill, [HB 1066](#));
- [HB 1129](#) prohibits the Board of Regents of the University System of Maryland from approving, and a constituent institution from imposing, a mid-year tuition or fee increase for resident students;
- [SB 882](#) requires the Governor to include sufficient funding in the State budget each year for 650 new

Maryland Teacher Scholarships and 2,200 renewed Teacher Scholarships, with any excess funds, due to a shortage of award recipients, to be distributed to the Maryland Hope Scholarship Program; and

- [HB 1188](#) establishes a special, nonlapsing Higher Education Investment Fund that contains proceeds from a 12.86% surcharge on corporate income taxes to be imposed from calendar 2004 to 2007. The bill requires the Governor to include in the fiscal 2006 to 2008 State budgets increases of 5% in aggregate general fund and Higher Education Investment Fund support for the University of Maryland and Morgan State University. If the funding increases in the bill are realized, increases in tuition and fees at the University System of Maryland and Morgan State University are limited to 5% per year from fiscal 2005 to 2008.

Companion bills, [SB 738/HB 959](#), aired in Senate and House hearings this week, provide that the Board of Regents of the University System of Maryland has all the powers and duties that have been assigned to it, except where the powers are limited by specific reference to the University System of Maryland. The bills also repeal a provision of the law that requires presidents of University System of Maryland institutions to stay within limits set by the annual State budget when creating new positions at University System of Maryland institutions.

Recent testimony on legislation related to elementary and secondary school issues concerns:

- [HB 25](#) that requires employers, including State and local government agencies and private employers, to provide up to 16 hours of unpaid leave annually to employees for certain school-related activities related to the employee's child or foster child. (Employees may use available paid leave);
- [HB 1153](#) that adds requirements under which retired teachers, principals, supervisors of principals, and health care practitioners in State facilities may be rehired without an earnings limitation and extends the sunset dates through June 30, 2008, for provisions that permit individuals in these categories to be rehired under specified circumstances; and
- [SB 559](#) that requires the State Board of Education to enhance physical education programs for public school students and adopt and disseminate a model policy regarding vending machines in public

schools. The bill prohibits vending machines in public elementary schools and requires timing devices to be used on vending machines in public middle and high schools to ensure that schools comply with time restrictions imposed by the bill.

A House committee killed [HB 278](#) that would have required each local board of education to prohibit a public school from distributing to students politically related materials that are directed at parents or students and that advocate a particular position or request a particular action. (The companion bill, [SB 862](#), will be before a Senate committee in mid March).

[HB 17](#), which would have expanded eligibility for the Edward T. Conroy Memorial Scholarship Program to include the child or spouse of a Maryland resident who was killed as a result of any act of terrorism, also failed a committee vote.

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## ENVIRONMENT, NATURAL RESOURCES, AND AGRICULTURE

[HB 109](#), as passed by the House, requires the Department of the Environment (MDE) to study the establishment and implementation of an electronic waste collection system for the collection and recycling of electronic waste, including cathode ray tubes. A similar bill, [HB 111](#), which would have prohibited landfills, transfer stations, and incinerators from accepting cathode ray tubes after December 31, 2005, received an unfavorable committee vote; as did [HB 328](#), which would have required MDE to establish an electronic waste recycling system that includes electronic waste collection and recycling facilities.

Also receiving unfavorable committee votes were [HB 288](#) and its companion bill, [SB 184](#), which would have created a Chesapeake Bay Recovery Fund in the Department of Natural Resources to solicit, accept, and expend gifts to support projects to restore the Bay and its tributaries.

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## FINANCIAL INSTITUTIONS AND COMMERCIAL LAW

A committee voted unfavorably on legislation ([HB 196](#)) that would have prohibited sending of sexually explicit commercial electronic mail (e-mail) messages or causing any pop-up advertisements to appear on an individual's computer unless specified actions are taken.

## FISCAL MATTERS

The Senate budget committee completed its budget hearings and is to make its decisions concerning the \$23.9 billion budget at the end of this week and next week. The committee anticipates that the Budget Bill (SB 125) with recommendations will be reported to the full Senate chamber on March 15. The House committee will finish its hearings next week.

The Senate will hold hearings on 126 bond bill projects totaling \$79.1 million introduced by individual members in an all-day session Saturday, March 6, and Monday morning, March 8. The legislative projects are vying for a share of just a little over \$17 million allocated for local bond projects.

A proposal that requires a portion of State and local recordation and transfer taxes to be dedicated to school construction for fiscal 2006 through 2008 remains in committee following a hearing last month. HB 1, the Public School Construction Assistance Act of 2004, imposes 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, limited liability partnership, or other form of unincorporated business. Controlling interest is defined as more than 80% of the total value of the stock or the interest in capital and profits.

A Senate committee heard public opinions on bills that increase taxes on alcoholic beverages and cigarettes:

- SB 527 triples the alcoholic beverage taxes, increasing the State tax rates for alcoholic beverages from \$1.50 to \$4.50 per gallon for distilled spirits, from 40 cents to \$1.20 per gallon for wine, and from 9 cents to 27 cents per gallon for beer. (For distilled spirits that contain alcohol greater than 100 proof, the additional tax is raised from 1.5 cents to 4.5 cents per gallon for each proof over 100 proof. Nearly identical, HB 889 has not been heard);
- SB 378 increases the cigarette tax from \$1.00 to \$1.50; and
- SB 363 increases the tax on tobacco products other than cigarettes (cigars, pipe tobacco, chewing tobacco, and snuff) from 15% to 45% of the wholesale price of these products. (Neither SB 378’s companion bill, HB 1226, nor HB 1315, increasing the cigarette tax to \$1.50 and dedicating \$100

million of cigarette tax revenue to increasing Medicaid provider reimbursements, is scheduled for a hearing.)

Also this week, a House committee listened to comments on HB 700, which increases the motor fuel tax rates by 10 cents per gallon, except aviation gasoline and turbine fuel, which are increased by 3 cents per gallon. If enacted, the motor fuel tax rate for gasoline goes to 33.5 cents per gallon; for special fuel (diesel) to 34.25 cents per gallon; and for clean burning fuel to 33.5 cents per gasoline-equivalent gallon. The motor fuel tax rate for aviation gasoline and turbine fuel is increased to 10 cents per gallon. Motor fuel tax revenues are deposited in the Transportation Trust Fund.

Bills altering the Heritage Tax Credit Program have been scheduled for Senate committee hearings in two weeks. SB 190, the Heritage Structure Rehabilitation Tax Credit Program, extends the program to January 1, 2010, and limits the State tax credit to \$3 million for a commercial rehabilitation and \$50,000 for any other rehabilitation. Other provisions place time limitations on the approval of a project, and, starting with 2004, place a \$30 million annual limit on the credits available for commercial rehabilitations, an increase from the present \$15 million limit. The companion bill, HB 289, had a hearing last month.

SB 246 creates the Maryland Heritage Structure Rehabilitation Program replacing the tax credit program with a competitive grant program for historic rehabilitation projects. The projects must be substantial rehabilitations of the historic property which meet Maryland Historical Trust requirements. The maximum commercial rehabilitation grant would be \$3 million and the maximum grant for other projects would be \$25,000. The companion bill, HB 679, had a hearing last month.

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## GAMING, SPORTS, AND RACING

This week committee members heard testimony concerning the sudden death of young athletes. The preamble to HB 1322 notes a study that found teens and young adults who regularly train and compete in sports are more than twice as likely to experience sudden death than non-athletes. The study recommends that athletes be screened for underlying heart conditions and suggests that the current standard of pre-sports physicals may not go far enough. Under the bill, a Medical Advisory Committee on Physical Evaluations for Student Athletes is to advise the Maryland Public Secondary Schools

Athletic Association on the content and use of a pre-participation physical evaluation form and review pre-participation physical evaluation procedures at least every three years.

Failing in a House committee was [HB 451](#), which prohibits 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 before July 1, 2010.

- [HB 1300](#) and [HB 1301](#) to address the computation of malpractice rates. (Their companion bills, [SB 545](#) and [SB 436](#) had hearings in February); and
- [HB 1237](#) to require that in situations where arbitration of a malpractice claim has been waived by the Health Claims Arbitration Office, the claim is subject to mediation or another alternative dispute resolution process before the claim may be filed in a court.

A proposal ([SB 680](#)) to establish a school of pharmacy at the University of Maryland Eastern Shore was considered by a committee recently. The purpose of the school is to enhance accessibility to pharmaceutical education for rural and minority populations and to increase the number of practicing pharmacists in the State. Currently, the only full school of pharmacy in Maryland is at the University of Maryland, Baltimore.

Following a trend in other states and municipalities to access less expensive prescription drugs, [SB 167](#) requires the Department of Health and Mental Hygiene (DHMH) and the Department of Budget and Management (DBM) to implement a Canadian mail order plan for prescription drugs for enrollees in the State Employee and Retiree Health and Welfare Benefits Plan, Medicaid, and the Maryland Pharmacy Assistance Program (MPAP). The federal government has refused to permit importation in most cases due to drug safety and counterfeiting concerns.

Another controversial topic is tackled by [HB 1008](#), Public-Private Partnership for Health Coverage for All Marylanders, which provides universal health care coverage for State residents by changing eligibility requirements in the Medicaid program, the Maryland Children's Health Program (MCHP), the Maryland Pharmacy Discount Program (MPDP), the Maryland Health Insurance Plan (MHIP), and the small group health insurance market. The Senate took testimony on the companion measure, [SB 737](#), last month.

Unfavorable committee action doomed legislation ([HB 327](#)) that would have required an insurer, nonprofit health service plan, or HMO carrier to offer an association health benefit plan to specified associations and employers.

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## **HEALTH CARE AND HEALTH INSURANCE**

Bills regarding care for the developmentally disabled are moving through the committee process. [SB 338](#) requires State residential facilities to provide respite care for families who care for individuals with mental retardation or developmental disabilities in their home and increases the percentage of total beds to be reserved for respite care. The companion bill is [HB 475](#). Under [HB 1079](#) one of the State's residential facilities, Rosewood Center in Owings Mills, is to be closed with the residents transitioned to community-based services. Savings realized from the facility closure are to be used to increase funding for community-based services. A hearing is scheduled for next week.

The complex issue of medical malpractice reform is definitely on the front burner this session. This week House and Senate committees reviewed the Administration's medical malpractice reform legislation ([SB 193/HB 287](#)) that includes a decrease in the cap on noneconomic damages to \$500,000. Noneconomic damages, which include pain, suffering, and disfigurement, are subject to the current cap of \$635,000, which increases by \$15,000 annually every October 1.

Other bills related to malpractice considered by House committee members include:

- [HB 1299](#) to establish a Task Force on Medical Malpractice to assess the extent to which the cost of medical malpractice liability coverage for health care providers increased in recent years, determine the causes of the cost increases, study the aspects of the health care, insurance, or legal systems related to malpractice liability, and make recommendations by December 15, 2004, to address the increased costs of malpractice liability coverage;

## REAL PROPERTY, ESTATES, AND TRUSTS

Homeless advocates have been rallying to protest the State's freeze on new applicants to the Transitional Emergency Medical and Housing Assistance Program (TEMHA). The program provides medical, housing, and other services to low-income disabled adults who are eligible for other assistance. The freeze is for the remainder of fiscal 2004 and new applicants will be accepted starting July 1. The General Assembly, in joint resolutions ([HJ 3/SJ 7](#)), urges the Governor to make funds available by transferring money from other programs or by including a deficiency appropriation for fiscal 2004 in the fiscal 2005 budget.

Other joint resolutions, [SJ 6](#) and [HJ 10](#), urge Congress to review the National Flood Insurance Program and consider changes to improve the handling of claims and other aspects of the Program. The resolutions are a result of the problems related to Tropical Storm/Hurricane Isabel. A Senate committee hearing is scheduled next week.

Additional bills resulting from Isabel include:

- [HB 435](#), now in the Senate, to extend the special assessment of damaged or destroyed residential real property to all real property other than that used for commercial purposes. (The assessment on the repair or replacement of similar value may not be greater than on the original property until the next assessment period); and
- [HB 1447](#) to require a lender, when evaluating the amount of flood insurance coverage required, to take into account a separate valuation for the improved property without the land value.

Still more Isabel bills, with committee hearings next week, are:

- [SB 579](#) to require a single adjuster to determine property damage from a flood for both the homeowner's insurance claim and the National Flood Insurance Program claim;
- [SB 834](#) to provide for flood insurance policies issued in the state of Maryland to be subject to the Unfair Claim Settlement Practices Act; and
- [SB 583](#) to require the Maryland Insurance Commissioner to include in his annual report when the Governor declares a state of emergency due to a

direct flood or flood-related damages, the impact of the flood on the insurance business, the complaints received and their resolution, ways to improve the handling of the emergency either by state laws or through the National Flood Insurance Program, and any other relevant information. The report is to be forwarded to the Federal Insurance and Mitigation Administration in the Federal Emergency Management Agency.

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## STATE GOVERNMENT

### *State Agencies*

The next step in the legislative process for measures ([SB 188/HB 299](#)) that establish a new cabinet level Department of Disabilities is voting up or down by committee members. Both House (March 3) and Senate (February 18) committee hearings are complete. The bills ([SB 177/HB 86](#)) that authorize a Maryland Office of Minority Health are also at the same stage. Their hearings were completed in February, as was the hearing on [HB 309](#) that creates an Advisory Council on Obesity in Youth.

[HB 1233](#), set for a hearing late next week, establishes a Community and Faith-Based Partnership Council as a mechanism to connect community and faith-based organizations and State agencies to better enable them to exchange information, coordinate resources, provide technical assistance, and serve as a clearinghouse to help meet the human services needs of Marylanders. Among its duties, the Council is to develop guidelines to ensure that no funds are used unless the agency responsible for the expenditure monitors the recipient organization and the programs it administers to ensure that funds are not used for sectarian-religious instruction or in connection with a program or department of divinity of a religious denomination.

The Council is also to ensure compliance with the anti-discrimination provisions of the federal Civil Rights Act. Council membership includes several Cabinet secretaries, legislators from the Senate and the House, local government representatives, as well as members of faith-based and nonprofit community organizations.

Latecomers to the 2004 session, [SB 903/HB 1488](#) designate a Special Secretary as the head of the Office of Minority Affairs, and seek to enhance the participation of minority business enterprises in the State's procurement process. Because of the late introduction,

the House bill is still in the House Rules Committee. The Senate measure has been reassigned to a standing committee.

As a cost saving and efficiency measure, [SB 811/HB 1406](#) create the Office of Natural Resources Police in the Department of State Police by transferring the Natural Resources Police from the Department of Natural Resources to the State Police. The Senate bill is on a committee's agenda for the middle of March, but the House bill remains in Rules.

Other bills ([SB 902/HB 1507](#)) along the same line charge the University System of Maryland to prepare an economic and fiscal impact analysis on and to report findings to the General Assembly in December 2005, about selected State programs including the:

- Sidewalk Program in the Department of Transportation;
- Neighborhood Business Development Program, Community Legacy Program, and the Rental Housing Office Space Conversion Program in the Department of Housing and Community Development;
- Community Parks and Playgrounds Program in the Department of Natural Resources;
- Brownfields Program in the Department of the Environment; and
- Sunny Day Fund in the Department of Business and Economic Development.

#### *Procurement*

This week a House committee took comments on several bills related to State procurement practices. Some bills relate to "prevailing wage" rates and others to "living wage" rates.

Under current law, school construction projects fall under the prevailing wage law if 50% or more of the construction costs are State funded. [HB 396](#), which takes effect July 1, 2004, provides that 75% or more of a school construction project must be funded by State sources in order for the prevailing wage law to apply. A departmental bill, [HB 532](#), provides for the same percentage. Prevailing wages are the hourly wage rates paid in the locality in which the construction work is to be performed.

Another proposal, [HB 425](#), raises the amount over which the State prevailing wage rate applies to construction contracts from \$500,000 to \$2.5 million and requires the Commissioner of Labor and Industry to adjust the threshold annually by the consumer price index or another appropriate index. The current threshold of \$500,000 was enacted in 1969 and is currently adjusted for inflation. The threshold applies to construction by any public body including the State; a unit of State government or instrumentality of the State; or any political subdivision, agency, person, or entity with respect to the construction of any public work for which 50% or more of the money used for construction is State money. This bill is a recommendation of the 2003 Task Force to Study Efficiency in Procurement.

Bills ([SB 621/HB 1192](#)) related to living wage rates define "living wage" as \$10.50 per hour as determined by the Commissioner of Labor and Industry who is required to adjust the wage rate annually based on the Consumer Price Index for all urban consumers in the Washington-Baltimore metropolitan area. Employers who are required to pay a living wage are for-profit contractors with a State contract for services valued greater than \$100,000 and their for-profit subcontractors with a subcontract for services of \$25,000 or more. If employers provide health insurance to workers, the employer may reduce the wages paid under this bill by all or part of the hourly cost of the employer's share of the premium for each employee.

Employers are not required to pay a living wage under certain circumstances, including if higher wages are required under other provisions. For example, if the Maryland Prevailing Wage Law applies to a procurement contract, and the prevailing wage rate exceeds the living wage rate, the prevailing wage would apply. The House bill was before a committee on Friday. A Senate committee will take testimony on its bill next week.

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## **TRANSPORTATION**

Measures being considered will require a driver in the far left lane of a road with two or more lanes moving in the same direction to yield the left lane to faster moving vehicles when it is safe and practicable to do so. [SB 628/HB 482](#) do not apply to a vehicle preparing for a left turn or a vehicle in a high occupancy vehicle lane.

The Senate passed a measure that prohibits a licensed driver under the age of 18 from driving with a passenger

under the age of 18 for 181 days after the driver's license is issued. The restriction imposed on the licensee under [SB 233](#) does not apply to a passenger who is a family member of the licensee. A police officer may only enforce the restriction as a secondary violation.

The issue of wearing motorcycle helmets is again before the General Assembly. [SB 611](#) exempts certain individuals from the current requirement to wear a helmet when riding on a motorcycle. The exemptions apply to an operator or occupant of any three-wheeled motorcycle equipped with an enclosed cab; a person 21 years old or older who is licensed to operate a motorcycle for at least two years; a person 21 years old or older who has completed a motorcycle-rider safety course approved by the Administrator of the Motor Vehicle Administration (MVA) or by the Motorcycle Safety Foundation; and a person 21 years old or older who is a passenger on a motorcycle operated by another exempt individual. Currently an individual may not operate or ride on a motorcycle unless the individual is wearing protective headgear that meets the standards established by the Administrator of MVA.

The use of cell phones by drivers is a hot topic across the country. [HB 189](#), withdrawn by its sponsor, would have imposed a restriction on each provisional license and each learner's instructional permit to prohibit the licensee or permit holder from using a cell phone, a text messaging device, a personal digital assistant that sends or receives messages, and a laptop computer while operating a motor vehicle. A similar measure ([HB 5](#)) is still pending in committee. And another proposal ([HB 29](#)) that would have prohibited, with certain exceptions, a driver of a motor vehicle that is in motion from using a hand-held telephone received an unfavorable committee vote. Similar legislation has failed for the last five years.

Other legislation that was stopped at the committee level includes:

- [HB 40](#) that would have prohibited a person from knowingly permitting the person's motor vehicle being driven on a highway by an individual that the person knew was not lawfully admitted into or otherwise lawfully present in the U.S.
- [HB 265](#) that would have required only one registration plate for all registered vehicles, instead of the two plates currently required. (An identical measure, [SB 299](#), was heard in committee this week and is still pending); and

- [HB 468](#) that would have created a special license plate honoring the diamondback terrapin with the words "Fear the Turtle," to support student scholarships at the University of Maryland, College Park. (The companion measure, [SB 723](#), is still pending).