



The Legislative Wrap-Up

Library and Information Services, Department of Legislative Services

Issue 04-13

April 5-9, 2004

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CLOSURE OR EXTENSION

As *sine die* approaches on Monday at midnight, legislators and staff are expecting the whirlwind of activity that always accompanies the end of a session. However, the hot topic under discussion throughout the week was the unusual factor in the 2004 equation, i.e. the possibility of an extended session, the first since 1992.

The extended session will be triggered by failure to agree on [SB 125](#), the State Budget Bill. However, by the time the Friday floor sessions came to a close, budget conferees for both the Senate and House had been appointed, lessening the likelihood that legislators will have to spend extra time in Annapolis. Hearings and floor sessions are scheduled to continue on Saturday and possibly on Sunday afternoon, as well. To date, 374 bills are in the approved column with 880 under the failed tab.

COURTS AND CIVIL PROCEEDINGS

Bills winning final legislative approval this week include:

- [HB 80](#) that allows a judge to decide whether to jail or release a defendant while awaiting the result of a prosecutor's pretrial appeal of the judge's decision to throw out vital evidence in a case; and
- [SB 464/HB 930](#) that grant immunity from civil liability to a defendant in a "strategic lawsuit against public participation" (SLAPP suit), and allow the defendant to move to dismiss the SLAPP suit or to stay all court proceedings until the matter about which the defendant communicated is resolved. The bills establish that a SLAPP suit is an action that is brought in bad faith, is materially related to the defendant's communication with a government agency or to the public at large, and is intended to inhibit the exercise of free speech rights.

CRIMES, CORRECTIONS, AND PUBLIC SAFETY

[HB 1208](#) (passed) hinders access to illegal child pornography on the Web by requiring police, after receiving information that child pornography resides on the server of a Maryland interactive computer service provider (ISP), to request the ISP remove the alleged pornography from its server within five business days. If the ISP fails to comply, a law enforcement officer must apply for a court order requiring compliance under certain conditions. Additionally, the ISP must report to the State Police the location of child pornography on its server. Violators are guilty of a misdemeanor and subject to a maximum fine of \$5,000 for a first offense, \$20,000 for a second offense, and \$30,000 for each subsequent violation. The bill does not impose a duty on an ISP to actively monitor its service. With House approval, the companion bill, [SB 720](#), captured final passage as well.

Both chambers also approved an amended [HB 194](#) that applies the current general criminal theft provisions and penalties to theft by use of an interactive computer service. A State's attorney may prosecute a violator in any county in which the victim resides or the electronic communication originated or terminated. The Senate struck the House language that also allowed prosecution in any state in which those conditions existed.

The House passed on second reading [SB 767](#) that requires step-down aftercare for each youth discharged from a juvenile justice system committed residential placement. The amended bill is now identical to the companion bill, [HB 1141](#), passed by the House last month.

A Senate committee defeated the Maryland Assault Weapons Ban of 2004 ([SB 288](#)) by a margin of one vote. The bill would have expanded the 1994 ban on the sale and possession of assault pistols in Maryland to include the 45 semiautomatic weapons that can currently be purchased legally in the State, as well as any copycat weapons, after September 12, the expiration of the current federal ban.

Other bills that failed committee votes include [SB 325/HB 191](#) that would have established a task force to study identity theft, and [SB 588/HB 1344](#) that would have increased the maximum penalties for motor vehicle theft.

ECONOMIC AND BUSINESS ISSUES

Business

This week, proposals related to minority business enterprises received final approval:

- [HB 483](#) increases 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](#) requires the certification agency, which is the Maryland Department of Transportation, to develop and make accessible on the Internet a directory of minority business enterprises in the State; and
- [HB 806](#) requires local jurisdictions and private entities that receive 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. The companion bill, [SB 323](#), passed second reading on Friday.

On the House floor with preliminary agreement, [SB 904](#) directs designated State agencies to award 10% of the total dollar value of their contracts directly to small businesses including to MBEs if they also meet criteria specified in the bill.

On the Senate floor with a preliminary green light, [HB 663](#) expands the uses of the Historic Preservation Loan Fund of the Maryland Historical Trust (MHT) to authorize loans for refinancing historic properties. Currently, MHT loans may be used for acquiring, rehabilitating, or restoring historic properties. Similar legislation passed the House last year.

The Senate amended and returned [HB 1468](#) to the House. The bill now exempts bed and breakfast establishments with eight, rather than five, or fewer rooms for rent from food service regulations related to the installation of commercial grade kitchen equipment.

It also subjects a bed and breakfast that serves hot meals to regulations that govern food safety and now requires licensure. A House committee has heard the companion bill, [SB 839](#).

[HB 393](#) (passed) increases the allowed number of winery special event permits. The bill retains the current three-day length for an event, allows three permits per year (not the current one per year) for use in the same political subdivision, eliminates the requirement that the events be organized by nonprofit or government entity, and reduces the permit fee for charity wine auctions, from \$500 to \$10. [SB 27](#), with the same language, is advancing in the House.

Economic Development

Administration legislation to expedite cleanup and reuse of contaminated properties received final approval this week. [SB 186/HB 294](#) (both passed) make changes in the brownfields redevelopment program established in 1997 to clean up and redevelop abandoned or underutilized industrial or commercial properties that are contaminated by hazardous materials. The bills expand eligibility to properties contaminated with oil and to some sites under active enforcement.

Other provisions allow an expedited application process on payment of a fee, require notices of applications for brownfields status to be posted on the property, expand the Maryland Department of the Environment's enforcement authority, and broaden eligibility of sites for financial assistance. The bills no longer contain provisions that would have expanded eligibility to a portion of a property under investigation.

Also achieving final passage, [SB 589](#) and [HB 1179](#) promote the development of agricultural and resource-based industry in the State. The bills establish a public corporation to provide financing for development and commercialization and to alleviate the shortage of capital and credit at affordable interest rates. Funding is to be provided through existing resources from several State agencies.

Legislation ([HB 966](#)) naming a task force to study the dynamics of elderly and retiree migration into and out of Maryland passed the Senate in an amended version. The study is to review the impact of tax policies, State and county expenditures on the elderly and retired, and benefits of the elderly and retired to State and local communities. The companion bill, [SB 122](#), is in a House committee.

A House measure ([HB 342](#)) that would have established a task force to study the automobile industry in Maryland to determine why there are so few minority-owned dealerships was rejected by a Senate committee.

Insurance

The House has amended and passed the Homeowner's Insurance Policyholder Bill of Rights to be the Homeowner's Insurance Offer and Summary of Coverage. In addition to deleting the provision defining the insurer's statement as part of policy, [HB 1071](#) no longer contains provisions that would have required insurance companies promptly to provide in writing contact information for the adjuster assigned to assess damages for a loss, or to prohibit the requirement that a policyholder perform demolition tasks usually performed by a contractor or that are beyond the physical capacity of the policyholder.

Other deleted provisions would have required companies to provide in writing any offer to settle a claim, and to send information to the address provided by a policyholder, if damages require a policy holder to vacate the insured premises.

The bill retains provisions that require the insurance company's statement to supply policyholders with a clear summary of coverages and exclusions and to state if the coverage is for replacement or actual cash value. Amendments further require the company's statement to include a disclosure that the policyholder should read the policy for complete information on coverages and exclusions, contact the insurance sales agent or the company for additional information, and state that the statement does not create a legal obligation.

Additionally the bill now requires written notice, at the time of purchase, to the policyholder that standard homeowners insurance policy does not cover losses from flood and requires the agent, if the agent sells flood insurance, to offer to sell flood insurance or otherwise refer the policyholder to the National Flood Insurance Program.

Other legislation affecting insurance for homeowners was killed in committee. Homeowner's insurance companies would have been required to offer coverage for loss caused by or resulting from mold under [HB 816](#). [HB 999](#) would have required written notice to a policyholder if the company intends to cancel or not renew a policy, to increase the premium, or to reduce coverage.

Utilities

Winning final approval, [HB 1269](#) 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.

EDUCATION

The House approved [HB 1477](#) to establish a Task Force on the Role of Alternative Providers in Supporting the Bridge to Excellence in Public Schools Act. Among the bill's provisions is a requirement to survey existing alternative early learning and child care providers to determine their capacity and capability to provide pre-kindergarten and kindergarten services required under the Bridge Act (Thornton Plan).

This week senators passed and a House committee heard [SB 894](#) that establishes procedures to ensure fiscal accountability of local school systems by requiring quarterly financial reports, prohibiting school budget deficits, and providing for regular legislative audits. Failure to comply would result in the withholding of State education funding.

Both chambers agreed to [HB 1167](#) that establishes in the law the Maryland Digital Library, operative since 2000, as a part of the Maryland Higher Education Commission (MHEC). The Digital Library encompasses the academic libraries of public and private nonprofit institutions of postsecondary education. After receiving comments from an advisory council also created by the bill, MHEC may encourage the academic libraries to take a number of actions to enhance the Digital Library and assist its users.

Failing a Senate committee vote, [HB 77](#) would have required the Workforce Investment Board to develop a program to further higher education assistance contracts between businesses and students, whereby in exchange for a business paying a student's tuition and fees, the student agrees to work for the business under specified circumstances.

Failing a House committee vote, [HB 1442](#) would have allowed a local board of education or a county governing body to request an extension of the 2007-2008 full-day kindergarten requirement under the Bridge Act.

ELECTIONS AND ETHICS

Current law provides that a person over the age of 10 may not accompany a voter into a voting booth, with certain exceptions for voters who require assistance. For the past several years the General Assembly has considered altering the maximum age level. [SB 95](#), as passed by both chambers, allows an individual under the age of 13 to accompany a voter into a voting room, provided the individual is in the care of the voter and does not disrupt or interfere with normal voting procedures. No more than two individuals under the age of 13 are allowed to accompany the voter. Additionally, with certain exceptions, an individual over the age of 12 may not accompany a voter into a booth. [HB 18](#), containing the same language, is also poised to pass.

The quest for voter-verified paper records in Maryland elections continues. [HB 53](#), amended and passed by the House, adds the requirement that a task force study the feasibility of implementing such a system, on or before January 1, 2006. Senate amendments delete the task force and make the Act apply to elections occurring on or before November 1, 2004. Both versions now specify that the Governor allocate certain resources for implementation. Legislators must reconcile the differences to reach final passage.

ENVIRONMENT, NATURAL RESOURCES, AND AGRICULTURE

The “flush tax” bill passed the Senate this week. As amended, [SB 320](#) establishes the Chesapeake and Atlantic Coastal Bays Watershed Restoration Fund to provide financial assistance to upgrade wastewater treatment plants. The bill creates a \$2.50 per month restoration fee for each residential dwelling that receives an individual sewer bill and, after July 1, 2005, for each user of a septic system or sewage holding tank. Of the funds collected from septic and holding tank users, 70% are for projects that will enhance nitrogen removal from those systems, while 30% are to fund cover crop activities. A newly created Bay Restoration Fund Advisory Committee is to evaluate the program and recommend the appropriate restoration fee to be collected in future years.

Earlier, the House passed the companion bill, [HB 555](#), that requires the \$2.50 per month fee for public sewer system users, but also calls for a \$.08 per gallon surcharge on septic waste disposal and incorporates provisions of another bill, [HB 291](#). The incorporated

provisions ease nutrient management reporting requirements for farmers and require a portion of the collected fees to be available to fund cover crop activities. The companion nutrient management bill, [SB 182](#), remains in a House committee.

FISCAL MATTERS

The Budget Bill, [SB 125](#), as well as the Budget Reconciliation and Financing Act, [SB 508](#), are in conference committee after the Senate refused to concur in any of the House amendments to those bills. The Senate also amended the Governor’s second supplemental budget.

The “Maryland Consolidated Capital Bond Loan of 2004,” [SB 191](#), is also in a conference committee after the Senate refused to concur with 27 amendments added by the House. As passed by each chamber, the bill authorizes the borrowing of \$628.3 million for State and local projects. The bill also includes prior year authorizations of \$30.4 million in legislative projects for local governments and nonprofit organizations, \$5 million for the Tobacco Transition Program, and a reduction in previous authorizations of \$8.7 million. The two chambers are in general agreement on the projects to be funded and the funds to be authorized. However, there are differences. Some of the House changes will:

- increase public school construction funds from \$99.2 million to \$138.1 million;
- reduce the GreenPrint Program funds from \$4 million to \$3 million;
- reduce the Rural Legacy Program funds from \$2.8 million to \$2 million; and
- reduce funding for the new biological sciences research building at the University of Maryland College Park from \$55.8 million to \$27.9 million.

Maryland Heritage Structure Rehabilitation Program legislation advanced to third reading on the House floor with substantial amendments. [HB 679](#), as amended, extends the program until July 1, 2008, for both commercial and residential projects. The bill imposes a \$50,000 tax credit limit for residential rehabilitations, which have no limits at present, and continues the \$3 million limit for commercial projects. No more than 50% of all of the credits for a fiscal year may be used in any one jurisdiction. The bill makes the program

dependent on a gubernatorial appropriation of at least \$20 million for fiscal 2006 and \$30 million for 2007 and 2008. The bill now increases the current calendar year 2004 tax credit limit from \$15 million to \$25 million. The additional \$10 million is subject to a competitive award process ensuring geographic diversity and an allocation to projects consistent with the State's growth and development policies.

The House refused to accept the Senate's amendments to [HB 297](#), a corporate income tax bill, and appointed members to a conference committee. The companion bill, [SB 187](#), is still in a House committee.

HEALTH CARE AND HEALTH INSURANCE

Moving through the chambers this week, [SB 373](#) passed the Senate and had a House committee hearing. The bill provides an early retirement allowance for employees of the Crownsville Hospital Center, if the Center is consolidated with other State hospitals.

[SB 332](#) awaits the Governor's signature. The bill requires hospitals in Maryland to allow pregnant women to arrange for the donation of umbilical cord blood from their newborns to a certified public cord blood bank. On Friday, the companion bill, [HB 398](#), passed a preliminary House floor vote with conforming amendments.

Also waiting for the Governor's consideration, [HB 384](#) allows pharmacists to administer influenza vaccinations with fees to be set by the State Board of Pharmacy and regulations to be developed by the Pharmacy Board and the Boards of Physicians and of Nursing. The companion bill, [SB 389](#), has passed both chambers, but with differences.

This week, a Senate committee reviewed House legislation, [HB 1299](#), dealing with medical malpractice. As passed by the House, the measure requires that in situations where arbitration of a malpractice claim has been waived, the claim is subject to mediation. The proposal also makes other changes to medical malpractice arbitration and establishes a task force to study malpractice insurance costs. No longer under consideration this session is the Administration's initiative to cap noneconomic damages at \$500,000 ([SB 197/HB 287](#)).

Legislation, [SB 570](#), requiring the Maryland Health Care Commission (MHCC) to establish a limited health

benefit plan that may be sold in the small group health insurance market was before a House committee this week. At midweek, a Senate committee considered [HB 845](#) that requires the MHCC and the Maryland Insurance Administration (MIA) to conduct studies of the affordability of health insurance in Maryland. A House committee has not acted on similar legislation, [SB 131](#).

The House approved legislation, [HB 1410](#), regarding the State's health insurance mandate for coverage of surgical treatment of morbid obesity. The bill clarifies that a health insurer, nonprofit health service plan, or HMO must cover the surgical treatment of morbid obesity that is recognized by the National Institutes of Health as effective for the long-term reversal of morbid obesity and is consistent with guidelines approved by NIH. Similar Senate legislation, [SB 868](#), had a House hearing this week.

A Senate panel reported unfavorably on [HB 397](#) that would have created a Task Force to Study Pharmacy Benefits Management.

STATE GOVERNMENT

Although a number of bills proposed additions to Maryland's official State symbols, holidays, or special dates, only two measures appear to have a shot at passage. [SB 428](#), designating lacrosse the State team sport, is in a House committee with no reported vote. [HB 22](#), approved by the House, names the Patuxent River stone as the State gem and, in addition by amendment, makes lacrosse the State team sport.

With final legislative approval, [SB 164](#) pumps up current law by adding specific provisions regarding the temporary inability or unavailability of Maryland's Attorney General to serve in office. The measure codifies a procedure to name the senior Deputy Attorney General as Acting Attorney General in that event.

The General Assembly adopted the Open Meetings Act in 1977 that requires, with certain exceptions, public business to be performed in an open and public manner, thus allowing citizens to observe the performance of public officials and the making of public policy.

[SB 87/HB 73](#), both now in the Governor's pipeline, authorize any person, rather than just a person adversely affected, to file with a circuit court that has venue, a petition asking the court to determine the applicability of open session requirements under the Open Meetings Act.

Other passed legislation, [SB 111](#), waiting for the Governor's approval, alters the definition of a "public body" under the Open Meetings law to include a multimember board, commission, or committee appointed by an official who is subject to the policy direction of the Governor or chief executive authority of a political subdivision. The bill also requires a public body to include specified information when filing a response to a complaint and to retain specified documents. Another proposal, [HB 1243](#), to alter the Open Meetings Act, related to the executive function exclusion, had a Senate hearing on Friday.

In 2001, the General Assembly established the current overall goal of 25% for the total value of contracts being awarded to certified Minority Business Enterprises and the separate goals of 7% for African-American businesses and 10% for women-owned businesses. This session several bills seek to build on that platform.

As noted under Economic and Business Issues, the General Assembly passed [HB 483](#), [HB 721](#), and [HB 806](#). [SB 903](#), which passed a second reading vote on the House floor today, establishes, in place of the current Director position, a Special Secretary of Minority Affairs, and requires agencies to include a statement of the expected level of minority business participation in the specifications of invitations for bids and requests for proposals. The Board of Public Works is required to adopt regulations that an agency must identify the specific commitment of certified MBEs at the time of submissions of bids or proposals.

Currently, there is no "living wage" requirement for State contractors. Legislation, [SB 621](#), passed by the Senate and scheduled for a House hearing on Friday, requires contractors or subcontractors with a State contract for services valued greater than \$100,000 to pay a living wage which is defined as \$10.50 an hour. Employers are not required to pay a living wage under certain circumstances.

Another bill dealing with State procurement advanced this week. [HB 1044](#), currently on the Senate floor, prohibits private sector employers performing under State contracts from taking or refusing to take personnel actions against an employee as a reprisal for whistleblowing. Two other measures addressing women in the workforce are on track, as well. [SB 917](#) (passed) and [HB 1538](#) (passed) establish a task force to develop a statewide women and information technology plan with implementation and promotion strategies.

With regard to other matters, [SB 188](#), which creates a new State Department of Disabilities, is moving toward passage in the House. [SB 614](#), also advancing in the House, requires the State to continue a prescription drug benefit plan and to make it available to retirees, notwithstanding the enactment of the federal 2003 Medicare Act or any other federal law permitting states to discontinue prescription drug benefit plans to State retirees.

TRANSPORTATION

The Senate passed the House version of the Administration's transportation financing measure without further amendments. As passed in the House, the proposal was reduced by \$83 million per year, but is still expected to generate \$165.5 million. [HB 1467](#) increases car registration fees by \$23.50 per year and truck registration fees by \$36.00 per year. However, the House deleted the surcharges on moving violations and drunk driving offenses.

The Senate passed [SB 611](#) that exempts certain individuals from the current requirements to wear a helmet when riding 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 has been 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 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.