



# The Legislative Wrap-Up

Library and Information Services, Department of Legislative Services

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## COMMITTEE REPORTS AND CHAMBER CROSSOVERS

The number of introductions for 2005 has reached 1,011 in the Senate and 1,603 in the House. There are also 13 House Joint Resolutions and 11 Senate Joint Resolutions.

At this time in each session, committee and floor action begin to take on more significance as bill deadlines approach. The courtesy deadline for committees to report their bills is March 22, the 70<sup>th</sup> day. The opposite chamber bill crossover date is March 28, the 78<sup>th</sup> day.

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## COURTS AND CIVIL PROCEEDINGS

A Judicial Compensation Commission recommendation ([SB 253](#)), defeated in committee this week, would have allowed a surviving spouse or dependent child of a member of the Judges' Retirement System to enroll in the State Employee and Retiree Health and Welfare Benefits Plan, if the judge died while employed or before the judge earned five years of creditable service. The companion bill, [HB 292](#), has seen no action in the House.

Legislation to increase the number of judgeships in the circuit courts and District Courts of Baltimore City and Anne Arundel and Worcester Counties, in the circuit courts of Baltimore, Montgomery, and Washington Counties, and in the District Courts of Calvert and Prince George's Counties ([HB 236](#)) passed the House. The Senate has not acted on the companion bill, [SB 204](#), beyond a committee hearing.

The House also approved [HB 829](#) to allow the Maryland Attorney General to bring an antitrust action against the manufacturer or distributor of medicine or a medical device, cosmetics, food or food additive, or commercial feed on behalf of a consumer even when the consumer purchased the product through a retailer and not directly from the manufacturer or distributor. No committee vote has been taken on the companion bill, [SB 413](#).

Legislation to repeal the prohibition against recording or broadcasting criminal proceedings ([SB 550/HB 1070](#)) has been heard in committee. The measures authorize a presiding judge to grant a media organization's request

to make a visual or audio recording of a criminal proceeding, with the exception of a grand jury or juvenile proceeding or a criminal proceeding that is closed or relates to a sexual crime.

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## CRIMES, CORRECTIONS, AND PUBLIC SAFETY

The Senate gave preliminary approval to [SB 394](#) that requires the Department of State Police (MSP) to investigate any death of a prisoner in the custody of the Division of Correction, when the death is not the result of natural causes. Currently, the Department of Public Safety and Correctional Services (DPSCS), which includes the Division of Correction, investigates such deaths. The bill also authorizes the police to work within the limits of municipal corporations when conducting such an investigation.

Receiving preliminary approval from the Senate this week, [SB 208](#), an Administration bill, increases the membership of the Criminal Justice Information Advisory Board and requires it to recommend to DPSCS regulations to ensure the compatibility and interoperability of communication and information management systems maintained by State, county, and municipal public safety units. The companion bill, [HB 243](#), remains in a Senate committee.

Two other Administration bills received final Senate approval:

- [SB 213](#) expands the provisions concerning when and where DNA samples can be taken from a person convicted of a felony or a breaking and entering misdemeanor to include a suitable location in a circuit court following sentencing. (The companion bill, [HB 240](#), remains in a Senate committee); and
- [SB 216](#) enacts and ratifies the National Crime Prevention and Privacy Compact that organizes an electronic information sharing system among the federal government and the states to exchange criminal history records for noncriminal justice purposes. (The companion bill, [HB 241](#), remains in a Senate committee).

Voted down in committee, [HB 773](#) would have allowed car theft victims to submit written testimony at the trial of the alleged thief instead of appearing in person. Similar bills are still under committee consideration ([SB 827/HB 1391](#)).

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## ECONOMIC AND BUSINESS ISSUES

### *Insurance*

Legislation permitting an insurance company to conduct a pilot program in the State was before a committee this week. Under [SB 938](#), an insurer may apply to the Commissioner of Insurance for permission to conduct a pilot program for a set time. Except for the restriction on discrimination in underwriting, other provisions exempt an approved pilot program from legal and regulatory requirements for insurance products. The companion bill, [HB 1573](#), is to be heard next week.

### *Labor*

The Senate approved [SB 712](#), a measure that permits an employer to pay an employee's wages by crediting the wage to a debit card or "payroll card." Just as with direct deposit, the employee must authorize this method of payment. The debit or payroll card allows the employee to access the money through ATMs or direct purchase of goods and services. A House committee has yet to vote on the companion bill, [HB 751](#).

Companion legislative proposals resulting from recommendations of the Unemployment Insurance Funding Task Force passed their first chambers. The task force is charged with examining the current charging and taxation system, eligibility and benefit provisions, and the need to alter the current system to maintain the trust fund level to meet benefit needs. Under federal law, each state must maintain an unemployment insurance trust fund from which unemployment benefits are to be paid. Provisions of [SB 703/HB 798](#) include:

- replacing the current single schedule of experienced tax rates and the flat-rated surcharge system with an overall experienced rated system;
- increasing the maximum weekly benefit amount from \$310 to \$340, and from \$90 to \$100 the amount an individual may earn and still receive the full weekly benefit amount; and
- establishing an oversight committee for two years to review the effect of the implemented changes and make further recommendations.

On the Senate floor following preliminary approval, [SB 983](#) exempts military disability severance payments from current provisions that require a reduction in unemployment insurance benefits, if the individual receives or is eligible to receive dismissal payment or wages in lieu of notice.

Delegates will hear testimony next week on [HB 1567](#) that alters the way unemployment insurance experience rates are determined for successor employers following a transfer of a business. The measure also imposes penalties if the Secretary of Labor, Licensing, and Regulation determines that the transfer of trade or business occurred primarily or solely to obtain a reduced unemployment insurance contribution rate.

### *Business Occupations and Licenses*

Senators heard testimony on a proposal to expand the definition of amusement ride to include a ride, not intended for children, popularly referred to as a "mechanical bull." [SB 741](#) also prohibits the Commissioner of Labor and Industry from adopting rules that require the owner or operator of this kind of amusement ride to install any type of restraining device. Current law defines an amusement ride as a device that carries passengers along or around a fixed or restricted course or within a defined area. State regulations also require amusement rides to have a restraining device.

### *Energy*

The House amended and passed [HB 975](#) expanding the number of buildings eligible for the green building tax credit by reducing from 20,000 to 10,000 square feet the minimum space requirements for buildings. Amendments struck other provisions that would have permitted nonprofits to claim the tax credit, made the tax credits refundable and transferable, and increased the total credit certificates allowed by \$10 million.

[SB 397/HB 490](#), establishing an Energy-Saving Investment Program consisting of energy efficiency programs and renewable energy projects, both have had committee hearings. The bills also create an investment fund to increase the opportunities to save energy and reduce energy costs and pollution, with funding from a charge to residential electric and gas customers. The legislature has considered similar bills in recent sessions.

## EDUCATION

### *Higher Education*

The Senate approved [SB 487](#) authorizing the custodian of a public record to deny inspection of that part of the record that contains information disclosing or relating to a trade secret, confidential commercial information, or confidential financial information owned by a public institution of higher education, if the information is part of an arrangement between the institution and the private sector. The companion bill, [HB 1283](#), was heard in a House committee this week.

### *Teachers and Principals*

The House passed legislation authorizing the State Superintendent of Schools to select up to 10 principals per year to become fellows in a new Principal Fellowship and Leadership Development Program. Under [HB 995](#), the principals must be nominated by their local superintendents of schools and must agree to be transferred from their local school systems for three years to schools identified for restructuring under the State's accountability regulations. In addition to their normal salaries, fellows receive an annual stipend of \$30,000 from the State.

Hearings were held on [SB 334](#) and [HB 379](#) that provide, with specified exemptions, that a "person in a position of authority" may not engage in a sexual act, sexual contact, or vaginal intercourse with a minor who, at the time of the act, contact, or intercourse, is a student enrolled at a school where the person is employed. A similar bill passed the House last year.

### *School Programs and Policies*

The following bills passed their house of origin this week and must make the same journey through the other chamber:

- [HB 579](#) creates a Pilot Program to Study and Improve Screening Practices for Autism Spectrum Disorders in the Maryland State Department of Education (MSDE). (The companion bill, [SB 834](#), was heard this week);
- [SB 426](#) establishes procedures, policies, and timelines for the transfer of educational records of a child in state-supervised care and also requires local boards of education to establish a dispute resolution process to address expeditiously disputes related to the transfer of an educational record. (The companion, [HB 1259](#), is just out of committee with a favorable vote);

- [SB 501](#) establishes a 19-member Task Force on School Safety to improve school safety and make recommendations regarding the use of identified strategies; and
- [SB 473](#) requires local boards to establish a nutrition policy by January 31, 2006, and to implement the policy by the first day of the 2006-2007 school year. The policies must cover all foods and beverages made available to students during the school day, including those sold in vending machines, in school cafeterias, and in school stores. As amended, the policy does not apply to fundraisers held off the school grounds.

Other bills in committee hearings this week included:

- [HB 521](#) that establishes a statewide nutrition program that requires local school systems to serve more fresh fruits and vegetables, eliminate fried foods, review and limit food portion sizes, limit the amount of sodium in foods, and offer healthy food choices at all school activities. (The companion bill [SB 609](#) was heard last week);
- [HB 525](#) that requires MSDE to employ a full-time Director of Physical Education to assist local boards in making long-range plans to meet the minimum national standards for physical education as established by the National Association for Sport and Physical Education. (The companion bill, [SB 233](#), passed the Senate in February);
- [SB 806/HB 1074](#) that require local boards to develop a one-page community resource list for distribution to each suspended or expelled student or the student's parent or guardian;
- [SB 912](#) that requires local boards to provide a public charter school with an amount of county, State, and federal money for each student that is equal to 90% of the per pupil amount that was provided to other public schools in the jurisdiction in the previous fiscal year; and
- [SJ 9](#) that urges the President and Speaker to convene a Summit on Civic Literacy with the assistance of MSDE and the Maryland delegation to the Congressional Conference on Civic Education. The companion resolution is [HJ 10](#).

A proposal, [HB 503](#), that would have required local school systems to purchase calcium-enriched food and beverages to be served to students at a public school or school activity failed to gain committee support.

## ENVIRONMENT, NATURAL RESOURCES, AND AGRICULTURE

Bills that moved to the opposite chamber this week include:

- [HB 709](#), creating a poultry registration program in the Department of Agriculture to prevent the spread of avian flu. Provisions added in committee require the department to protect the identity of registrants unless disclosure is necessary for the protection of public health or to prevent the spread of disease; and
- [SB 405](#), an emergency bill, prohibiting the Department of Natural Resources from introducing nonnative oysters into State waters unless specific conditions are satisfied, and, as amended, requiring the completion of a draft environmental impact statement, and review and approval by an independent oyster advisory panel of scientific experts. (The crossfiled bill, [HB 1250](#), and a similar bill, [HB 430](#), remain in committee); and
- [SB 502](#), as amended, requiring the Maryland Agricultural Land Preservation Foundation (MALPF) and the Department of Planning (MDP) to establish a Critical Farms Program to provide interim or emergency financing for the acquisition of agricultural preservation easements on county-identified critical farms that would otherwise be sold for nonagricultural uses. MALPF and MDP must complete a study, and report by January 1, 2006, on available funding options before the program is initiated. (A similar bill, [HB 1334](#), remains in its house of origin.)

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## ELECTIONS

### *State Board of Elections and Voting*

As amended and approved by the Senate, [SB 444](#) continues the current gubernatorial nomination process for the five members of the State Board of Elections (SBE). However, the bill specifies that the Governor is required to nominate two of the five members from candidates recommended by the opposing party's central committee.

The bill retains the authority of the board to hire the State Administrator of Elections, but with the advice and consent of the Senate. The removal of the administrator, which has been so controversial, is still to be determined by the board. The companion bill, [HB 675](#), remains in a House committee. A late introduction, [HB 1458](#), on the

appointment and removal of board members is scheduled for its first hearing next week.

The Voters Rights Protection Act ([HB 5](#)) received a preliminary green light on the House floor. The measure, with clarifying committee amendments, is an omnibus bill that among its provisions provides that an individual whose right to vote is challenged at the polling place may establish that individual's identity by presenting certain forms of identification, specifies the procedure for local boards of elections to count provisional ballots, and requires the SBE to report by this December on the administration of elections. [SB 287](#), the companion legislation, remains in a Senate committee.

Moving out of committee to the Senate floor with amendments, [SB 478](#) establishes a process to allow voters to vote in elections at early voting polling places in the State. The companion measure, [HB 1046](#), remains in a House committee.

### *Campaign Financing*

Legislation that makes an adjustment in Maryland's campaign financing law passed the House. [HB 566](#) changes the definition of the types of entities covered by campaign contribution attribution provisions from a corporation to a "business entity," which includes a corporation, a general or limited partnership, a limited liability company (LLC), or a real estate trust. The bill attributes campaign contributions from two or more business entities as a single contribution if one business entity is a wholly-owned subsidiary of another or the business entities are owned or controlled by at least 80% of the same individuals. The Senate companion, [SB 461](#), was heard early this month.

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## FINANCIAL INSTITUTIONS AND COMMERCIAL LAW

A House committee held a hearing on [HB 1053](#) authorizing a gift card or gift certificate to be subject to expiration or a service fee if it complies with specified disclosure requirements. This week the Senate passed its legislation ([SB 8](#)) regulating the sale of gift cards and gift certificates with respect to expiration date and postsale fees.

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## FISCAL MATTERS

The Budget Bill ([HB 150](#)) was reported with amendments to the full House on Friday and laid over until Monday when the House will discuss the committee amendments and any floor amendments. The

bill should be in the Senate by the end of next week. The Governor sent a supplemental budget, the first this session, to the legislature for consideration with the Budget Bill.

The budget committees completed hearings on the capital budget and will hold hearings this weekend for the local bond bills (SB 274/HB 340).

Next week Senators will hear testimony on two sales tax free period bills. SB 374 exempts school supplies, clothing, footwear, and, if the price is less than \$1,000, personal computers from the sales tax statewide for the weekend starting the second Friday in August each year through the following Sunday. SB 599 applies only in enterprise zones and exempt clothing and footwear from the sales tax sold from August 24 through August 28, 2005, whose taxable price is under \$100. SB 599's companion bill, HB 37, had a hearing in February.

The Senate amended and passed SB 199 granting property tax relief to homeowners whose homes were damaged or destroyed by a natural disaster, especially Hurricane Isabel. As passed, the bill provides two local property tax credits. The original companion bill, HB 343, remains in committee.

Attempts to re-establish the credit against the motor vehicle excise tax for purchasing an electric or hybrid vehicle failed when HB 368 was voted down in committee. A similar bill was killed last month (SB 12).

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## GAMING, RACING, AND SPORTS

The Senate amended and passed back to the House HB 1361, the video lottery terminal (VLT or slots) legislation. Originally, the House bill allowed 9,500 video lottery terminals at four locations, but with Senate committee amendments it conforms to the Senate's measure, SB 205, which allows 15,500 slot machines at seven sites, including four horse tracks that would be selected by a commission. Both bills are now in a House committee. This week, HB 255, the companion bill to SB 205, was killed by the House committee.

Other VLT and gaming-related House bills voted down in committee during the week would have:

- required the State Lottery Commission to regulate the operation of VLTs at five horse racetracks in the State (HB 108);
- authorized VLTs, regulated by the State Lottery Commission, at up to six horse racing facilities and for no more than four non-racing facilities (HB 673);

- required the Governor to negotiate a revenue sharing agreement with neighboring states that have gaming facilities with VLTs and allowed up to 12,000 VLTs in the State (HB 720);
- submitted a constitutional amendment to the voters that prohibited statutorily expanding gaming except for VLTs and limited the number of VLT licenses to six, with a total of 13,000 terminals (HB 722); and
- allowed expanded forms of gambling after January 1, 2007, if in a general election the majority of voters statewide and in the counties where the expanded gambling is located, approve such gambling (HB 850).

This week committee members listened to testimony on:

- SB 498 that abolishes the nine-member State Racing Commission and establishes two commissions – Thoroughbred Racing Commission and the Standardbred Racing Commission in its place; and
- SB 720, an emergency bill, that provides that the cumulative receipts of at least \$1.04 million in the former Racing Facility Redevelopment Bond Fund be distributed to a special fund to be used for purses for the running of the Pimlico Special and for purses at Rosecroft Raceway. The companion bill, HB 1029, was heard in early March.

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## HEALTH CARE AND HEALTH INSURANCE

On Monday, the Senate passed an amended SB 836 (Maryland Patients' Access to Quality Health Care Act of 2004 – Implementation and Corrective Provisions). This follow-up legislation to HB 2/Chapter 5, enacted during the recent special session addressing medical malpractice and patient safety issues, was reviewed by two House committees at the end of the week. The companion measure, HB 1359, is still pending in committee.

A House committee focused on a variety of bills dealing with medical malpractice issues including the Administration's Maryland Medical Injury Compensation Reform Act (HB 301), which establishes various tort and other reforms directed at compensation for medical injuries. A primary component of the legislation requires that a medical malpractice award or verdict for a cause of action arising on or after January 1, 2005, limit noneconomic damages to \$500,000 rather than the current \$650,000. The Senate companion, SB 221, had a hearing last week in a Senate committee.

Other bills of interest, passing in their house of origin this week, include:

- **SB 251** that establishes the Task Force to Study Electronic Health Records to look at current and potential expansion of electronic health record use in reporting and implementation costs with a report due by December 31, 2007;
- **SB 681**, as amended, that requires certain clinical trials to be listed with the federal Clinical Trials Data Bank, but without fines for non-compliance. (Similar legislation (**HB 54**) has passed the House);
- **HB 199**, as rewritten, that requires the Maryland Health Care Commission to add health care-associated infection information for hospitals to its already established system to evaluate comparatively the quality of health care outcomes and performance measurements of hospitals and ambulatory surgical facilities. (The current law requires that the summary findings of the evaluation be published annually); and
- **HB 462** that repeals the May 31, 2005, termination date for the mandated health benefit for the coverage of the surgical treatment of morbid obesity, and for the Task Force to Study Utilization Review of the Surgical Treatment of Morbid Obesity. The Senate companion, **SB 333**, was adopted in that chamber earlier this month.

Originally introduced to establish a drug repository program, an amended **SB 441** with a preliminary okay from the Senate now creates a task force to study and make recommendations regarding setting up such a program. The bill mirrors a similar measure, **HB 317**, passed by the House.

There was a well-attended hearing on **HB 813** that imposes an income tax surcharge beginning in tax year 2007 on individuals whose income exceeds specified thresholds and do not maintain minimum health care coverage. Unless certain conditions are met, an income tax surcharge of 1% is assessed on the Maryland taxable income of an individual whose net taxable income exceeds \$55,900.

Also, unless certain conditions are met, an income tax surcharge of 2% is assessed on the Maryland taxable income of a married couple filing jointly if the married couple's net taxable income exceeds \$83,850.

**HB 742**, also on a committee schedule this week, expands the current parental notification requirement for a physician when a minor seeks an abortion. The bill

includes conditions for a circuit court to grant waivers for parental notification and sets forth appeal procedures for denied waiver petitions. It also requires the Department of Health and Mental Hygiene (DHMH) to develop and provide a fact sheet on the notification procedures to physicians, agencies, and family planning service facilities for free distribution to unmarried pregnant minors who seek abortion services.

A Senate committee heard similar bills (**SB 796** and **SB 841**) establishing domestic partnerships for the purpose of conferring rights to make medical determinations in certain circumstances.

Rejected in committee this week:

- **HB 176** would have required DHMH to evaluate a process for assisting senior citizens in purchasing reduced-cost prescription drugs from sources outside the State; and
- **HB 1144**, Public-Private Partnership for Health Coverage for All Marylanders, would have provided for universal health care for the State's citizens.

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## **REAL PROPERTY, ESTATES, AND TRUSTS**

Passing the Senate, **SB 411** adds a municipality to the category of "leasehold estate." The legislation responds to an issue concerning the city of College Park, which owns the land on which City Hall is built, and, as part of its revitalization plan, wishes to move City Hall to another location, retain ownership of the land, develop it and lease it. Doing this creates a condominium regime. If passed, the legislation would allow any municipality to develop land it owns and be governed by the terms of the Maryland Condominium Act. Current law grants this authority to the State, a charter home rule county, and, under certain conditions, the Washington Metropolitan Transit Authority.

The Senate also passed **SB 480** that would reduce to 3% the amount of interest a mobile home park owner must pay on a security deposit. The House passed a companion measure, **HB 637**, this week.

Four bills in the estates and trusts category have passed the Senate and will be heard by a House committee on March 30. They are:

- **SB 3**, governing custodial property under the Maryland Uniform Transfers to Minors Act;
- **SB 45**, allowing a replacement or co-personal representative to be named in a will;

- [SB 51](#), allowing the personal representative in an estate to pay funeral expenses of a decedent up to \$10,000; and
- [SB 197](#), allowing a Baltimore County Orphans' Court judge to practice law in a case unrelated to the administration of an estate or of guardianship.

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## STATE GOVERNMENT

Among the proposals that passed one chamber this week are bills dealing with:

- protecting the security of the State's computer systems under the umbrella of the Information Technology Board ([HB 801](#)); and
- requiring legislation to explicitly authorize the Governor to bind the State to the procurement rules of an international trade agreement ([SB 401](#)). The companion measure, [HB 514](#), is in a House committee.

The bill ([HB 701](#)) that would have made the Maryland Insurance Commissioner an elected position was withdrawn this week. [HB 919](#), also withdrawn, would have established a "Commercial Nondiscrimination Policy" under the State's procurement law.

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## TRANSPORTATION

The House passed and sent the Senate five bills that address teen driving. One bill, as amended, extends the time period from four to five months for a learner's permit holder to take an exam for a provisional license and sets up a Task Force to study driver education and teen driving issues with a report due this November ([HB 242](#)).

Another measure specifies that the time line of 18 months for a provisional licensee to be eligible to obtain a driver's license starts anew from the date of a conviction for a seat belt or nighttime driving violation or from the date that a provisional license has been restored following revocation or suspension ([HB 244](#)). Still other measures prohibit use of cell phones for under age drivers ([HB 394](#)) and add additional hours of practice driving requirements ([HB 395](#)).

The most controversial legislation limits passengers of minor provisional licensees for the first five months of their 18-month provisional period to related persons. Specifically, the bill counts a spouse, daughter, son,

stepdaughter, stepson, sister, brother, stepsister, or stepbrother, or a relative who resides at the same address as related. The major objections to the measure come from legislators who represent rural areas where younger drivers may be called on for transportation needs, since there is little if any public transportation available ([HB 393](#)).

This week the full Senate continued to consider an amended [SB 50](#) that prohibits cell phone use by drivers under 18 who hold a learner's permit or a provisional license, except for emergency calls to 9-1-1. Earlier, the Senate passed a bill ([SB 57](#)) that restricts minor drivers from carrying minor passengers. That bill is scheduled for a House hearing on March 29.

Killed in committee, [HB 1092](#) would have specified that a local authority could not prohibit a candidate who has filed a certificate of candidacy with the State Board of Elections or a certificate of candidacy for elective municipal office from participating in a procession or assembly on a highway that had been authorized by the local authority. The companion measure, [SB 455](#), is still pending.

A Task Force to Study the Governance of Baltimore-Washington International (BWI) Airport was withdrawn this week ([SB 189](#)).

Effective January 2006, [SB 684](#), as amended and passed by the Senate, authorizes the MVA to develop, produce, and issue special registration plates with background scenes that promote the State's heritage, accredited private and public institutions of higher learning, geographic regions, military organizations, or amateur or professional athletic teams. The bill also authorizes a civic or nonprofit organization to apply to the MVA for a special registration plate with a background scene that promotes those same categories and relates to the organization.

If the legislation is successful, there will be a procedure to allow civic and nonprofit organizations to apply to have special registration plates honoring their organization issued without requiring the General Assembly to pass legislation. A House committee took testimony this week on the original companion bill, [HB 757](#), which references the procedure for nonprofit organizations only.