



The Legislative Wrap-Up

Library and Information Services, Department of Legislative Services

Issue 05-13

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CLOSING ACTIONS

By early Friday, April 8, 314 bills had passed both chambers, out of a total of 2,631 introductions (1,018 Senate bills and 1,613 House bills). At this point in the session, legislation on track to pass usually is under committee consideration in the opposite chamber or on the appropriate chamber floor waiting for action either through third reading passage or conference committee resolution. Passage requires that both chambers agree to exactly the same language or the differences must be resolved. Legislation that has not moved out of the chamber of origin usually would have an uphill battle to gain final approval by adjournment *sine die* at midnight on Monday, April 11.

COURTS AND CIVIL PROCEEDINGS

Final passage was gained by [HB 829](#) (passed) 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 did not purchase the product directly from the manufacturer or distributor.

The Senate approved without amendments [HB 236](#) (passed) that increases the number of judgeships in the circuit courts and District Courts of several counties and Baltimore City.

The House accepted the Senate amendments and approved [SB 347](#) (passed) to establish damages for the tortuous injury or death of a pet to be the reasonable and necessary costs of veterinary care, if the pet survives, and an additional amount reflecting the pet's fair market value, if the pet dies. Damage awards are capped at \$7,500.

CRIMES, CORRECTIONS, AND PUBLIC SAFETY

Legislators gave final approval to [HB 402](#) (passed) to require distributors of ammonium nitrate fertilizer to maintain for at least two years a record of all sales or distributions of the fertilizer and to make the record available to the Secretary of Agriculture upon request.

The Secretary may disclose the identity and location of the distributor and recipient to a government office that requests the information and that is charged with protecting public safety.

The General Assembly also will send to the Governor [SB 43](#) (passed) that establishes a Task Force to Study Identity Theft that must report its findings and recommendations by the end of next year.

[SB 208](#) (passed) emerged unamended from the House to increase the membership of the Criminal Justice Information Advisory Board and to require it to recommend to the Department of Public Safety and Correctional Services regulations to ensure the compatibility and interoperability of communication and information management systems maintained by State, county, and municipal public safety units.

With Senate approval, an unamended [HB 849](#) (passed) establishes misdemeanor criminal gang offenses and requires the police to report the arrest of a public school student for a gang-related offense or for arson or malicious burning to the school superintendent. The bill also allows a presentencing report for a defendant convicted of a gang-related crime to include information about the defendant's affiliation with the gang.

The House approved an Administration witness intimidation bill, [HB 248](#) that was amended to establish a more narrowly defined hearsay exception to allow the use in court of a statement provided by a witness who is unavailable to testify at trial due to the wrongdoing of the defendant. The bill also establishes a felony crime of witness intimidation with enhanced penalties. Two bills that, taken together, establish similar provisions ([SB 122](#) and [SB 188](#)) were amended to mirror [HB 248](#) and granted approval by the House, but must return to the Senate for concurrence.

The Senate passed [HB 692](#) to expand hate crime offenses to include crimes based on the sexual orientation of another person, after amending it to clarify that speech of a person during peaceable activity intended to express the person's religious beliefs or convictions is not a prohibited activity. An identically amended companion bill ([SB 578](#)) also gained Senate approval and is now in the House.

Other measures that have passed the opposite chamber in amended form and require resolution for final approval include:

- [SB 91](#) and [HB 283](#) to increase the length of time a court can order probation for a time longer than a defendant's sentence for a defendant convicted of sexual abuse of a minor or, when the victim was a minor, of rape or first, second, or third degree sexual offense;
- [SB 548](#) and [HB 610](#) to allow the use of a wiretap or electronic surveillance by law enforcement in a criminal investigation to provide evidence of vehicle theft, if the intercepting device is placed in a vehicle suspected to be a target of theft;
- [SB 47](#) to create the felony crime of second degree assault on an on-duty law enforcement officer and establish penalties; and
- [SB 394](#) to require the Department of State Police to investigate any death suspected to be a homicide of a prisoner in the custody of the Division of Correction.

ECONOMIC AND BUSINESS ISSUES

Business Occupations and Licenses

Following final passage, [HB 573](#) (passed) is ready for gubernatorial consideration. The bill authorizes the State Board of Morticians to conduct audits of licensed funeral establishments that provide pre-need contracts and receive pre-need funds from consumers. Provisions were deleted that would have established a trust fund intended to provide some recourse to consumers who find that a funeral establishment has mishandled their funds and does not provide the refund with interest as required by law.

Economic Development

The legislature gave final approval to legislation intended to help the 15 wineries in Maryland market their wine in the State. [HB 1450](#) (passed) creates a Maryland Wine and Grape Promotion Council and a Maryland Wine and Grape Promotion Fund. Grants from the fund will promote the production and consumption of Maryland wine and the production of grapes in the State. As amended, the bills no longer require that a portion of the tax on wine be distributed to the fund. (The companion bill, [SB 566](#), is set for a third reading House vote.) Delegates took testimony on [SB 565](#) that establishes the Governor's Advisory Commission on Maryland Wine and Grape Growing to replace the

current Maryland Wine and Grape Growers Advisory Board.

On another note, legislation that would have prohibited the sale or use of machines used to create an alcohol vapor that is inhaled known as Alcohol Without Liquid did not make it out of committee ([HB 1213](#)).

Legislative efforts to attract more commercial movie and video industry productions to the State continue to advance. [SB 215/HB 253](#) provide for a rebate to qualified film production companies on the first \$2,500 of wages paid to production employees for work in Maryland. The bills establish what type of film productions may qualify for the rebate grant, limit the total amount of the grant per production, and place the program in the Department of Business and Economic Development. Returned to the House, [HB 253](#) has Senate amendments that require an interim report and outline required information for the annual report.

The Senate amended bills that establish the Small Business Development Center Network Fund to provide funds to support the Small Business Development Center Network (SBDC) at the University of Maryland. As amended, [SB 792/HB 1292](#) require the Governor to appropriate \$250,000 next year and thereafter \$750,000 annually for the SBDC. The bills no longer require that 2% of corporate filing and recording fees, excluding expedited filing fees, be dedicated to the fund nor limit the use of the funds to matching federal funds. The SBDC offers free business consulting services to new and existing small businesses through six regional offices located in Bel Air, College Park, Cumberland, La Plata, Salisbury, and Towson. Both bills are pending.

Energy and Public Utilities

The legislature agreed to a measure that adds biomass electric generating facilities to solar and wind electric generating facilities eligible for net energy metering. [HB 1331](#) (passed) increases the maximum capacity that these electrical generating facilities may have from 80 to 200 kilowatts, or if approved by the Public Service Commission, 500 kilowatts. Net energy metering is the measurement of the difference between the electricity that is supplied by an electric company and the electricity that is generated by a customer's generator and fed back to the electric company. The customer is then given credit for the electricity it generates.

After amending its own bill, the Senate gave preliminary approval to identical measures ([SB 740/HB 1346](#)) establishing a Renewable Fuels Incentive Board within the Maryland Department of Agriculture. The board will oversee a program, limited to ten years with payments

beginning on or after December 31, 2007, that authorizes the payment of credits for the production of ethanol and biodiesel fuels. To be eligible for credits, a producer must be approved and certified by the board. Amendments to both bills in the original house reduced the number of gallons eligible for credits.

Insurance

Amended and passed by the Senate, [SB 437](#) requires a property and casualty insurer to provide a policyholder with an annual statement that clearly summarizes coverages and exclusions under the homeowner's policy. Provisions require the insurance seller to provide, at the time of purchase, a written notice that a standard homeowner's policy does not cover losses from flood and offer to sell flood insurance or supply contact information if the insurer does not sell flood insurance. The bill also requires that a written list of all additional optional coverage available from the insurer be provided to the applicant. The companion bill, [HB 64](#), is on the Senate floor with amendments.

House legislation permitting an insurance company to conduct a motor vehicle liability pilot program in the State was amended and approved. Under [HB 1573](#), now in the Senate, an insurer may use rates, rules, underwriting standards or forms that are not used in similar combinations in connection with other motor vehicle liability insurance offered by the company in the State, but the pilot program must provide the minimum liability coverage required by law, may not use the number of miles traveled by the insured motor vehicle as the sole underwriting standard, and must receive approval from the Insurance Commissioner before implementation. An approved program is exempt from a number of legal and regulatory requirements for insurance products.

Labor

Legislation increasing the minimum wage passed both chambers and will take effect January 1, 2006, if approved by the Governor. [HB 391](#) (passed) increases the minimum wage in the State to \$6.15 per hour for employees subject to the federal or State minimum wage requirements and set the tip wage at 50% of the minimum wage. Similar Senate legislation ([SB 89](#)), now in the House, also includes provisions that allow employers who provide employee health insurance to reduce the hourly wage by all or part of the employer's share of the premium for an employee, but not below the \$5.15 per hour federal minimum wage. The insurance provision is in effect for two years.

Also receiving final legislative approval this week, [SB 703/HB 798](#) (both passed) alter the unemployment charging and taxation system. The legislation resulted from recommendations of an Unemployment Insurance Funding Task Force. Under federal law, each state must maintain an unemployment insurance trust fund from which unemployment benefits are to be paid. Provisions 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.

Receiving approval, [SB 983](#) (passed) 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.

[SB 712](#) (passed) gained approval this week. The bill 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. The companion bill, [HB 751](#), is poised to pass in the Senate.

EDUCATION

Winning final passage by the General Assembly, the following legislation is ready to go to the Governor's desk:

- [HB 70](#) (passed) creates a textbook consortium in the University System of Maryland to enable University System institutions to receive volume discount on the purchase of textbooks by students;
- [HB 1045](#) (passed) requires the Governor to include in the fiscal 2007 and 2008 State budgets an appropriation for adult education equal to an increase of \$1,500,000 over the fiscal 2005 appropriation. The Maryland State Department of Education (MSDE) must distribute the funding as

Literacy Works Grants in order to reduce the waiting list for adult education and literacy services;

- [HB 1259](#) (passed) establishes procedures and timelines for the transfer of the educational records of a child in State-supervised care and also requires each local board of education to establish a dispute resolution process to expeditiously address disputes related to the transfer of an educational record;
- [HB 1347](#) (passed), a pension bill, specifies the circumstances under which retired teachers, principals, and supervisors of principals may be rehired without an earnings limitation (pension benefit offset); and
- [SB 834](#) (passed) creates a Pilot Program to Study and Improve Screening Practices for Autism Spectrum Disorders administered by MSDE. The companion bill, [HB 579](#), as passed by the Senate, now has the same language, but must go back to the House for agreement.

This week, a number of House bills passed the Senate with amendments and were returned to the House for further consideration:

- [HB 143](#) requires each local school system to adopt a written policy that authorizes a student to possess and self-administer an asthma inhaler or other emergency medication used to relieve an airway constricting disease while in school, at a school-sponsored activity, or on a school bus;
- [HB 525](#) requires MSDE to employ a full time Director of Physical Education. The Senate inserted an amendment requiring that on or before September 1, 2010, each public school shall have a program of physical education that meets the minimum national standards for physical education as established by the National Association for Sports and Physical Education;
- [HB 995](#) establishes a Principal Fellowship and Leadership Development Program and authorizes the State Superintendent of Schools to select up to 10 principals per year to become fellows in the program. A Senate amendment changed the proposed stipend, which is to be added to the principals' salaries, from \$30,000 to \$20,000 a year; and
- [HB 1074](#) requires each local board of education to develop a community resource list and distribute the list to the local public schools in its jurisdiction. The

list must be given to each suspended or expelled student or to the student's parent or guardian.

This week House committee members heard comments on [SB 901](#) that exempts property that is leased from the State and used to provide housing to students of public higher education institutions from the State and local property tax.

Measures that did not survive this session include:

- [HB 192](#), killed by a Senate committee, would have extended to nonresidents of Maryland the tuition reimbursement program that is available to career and volunteer firefighter and ambulance and rescue squad members working in Maryland;
- [HB 389](#), eliminated by a House committee, would have required the State Superintendent of Schools and the Professional Standards and Education Board to set a minimum number of semester hours covering fetal alcohol spectrum disorders required to qualify for a Maryland's teacher's certificate; and
- [HB 480](#), voted down by a Senate committee, would have established a Summer Learning Pilot Program to provide additional instruction in mathematics, reading, and language arts to low-income students during the summer break. The State and local school systems would have shared the costs of the program.

ELECTIONS AND ETHICS

The General Assembly approved [SB 287](#) (passed) that creates procedures for counting provisional ballots by local boards of election and for establishing a challenged voter's identity. The bill prohibits various conduct in connection with voting at polling sites and provides for civil and criminal penalties. In addition, the State Board of Elections is required to review its policies and procedures regarding election administration and to report by this December.

A number of election measures are moving forward in the second chamber, either with a committee hearing, a favorable committee vote, or a preliminary okay on the chamber floor. Those include the Voters' Authority to Cast Write-In Votes ([SB 288](#)), Absentee Voting – Disabled or Elderly Registered Voters ([HB 376](#)), and Absentee Voting on Demand ([HB 622](#)). The bills to allow early voting are on second reading with amendments ([SB 478](#) and [HB 1046](#)). Two other proposals in a viable posture require the State Board of Elections to study independent ballot verification systems in the State ([SB 849](#)/[HB 479](#)).

Officers of not-for-profit organizations won't have to report contributions the same way that other officers of commercial entities must report their contributions, under [SB 465](#) that garnered an okay with amendments from the House. The bill has been amended to reflect the language of [HB 178](#), which has received approval on a preliminary vote in the Senate.

ENVIRONMENT, NATURAL RESOURCES, AND AGRICULTURE

Final Passage

Emergency legislation restricting the introduction of nonnative oysters into State waters has been approved. [SB 405](#) (passed)/[HB 1250](#) (passed) makes it a misdemeanor for anyone, except for the Department of Natural Resources (DNR), to introduce a nonnative oyster into State waters unless the person has a permit issued by the Department. DNR may not introduce nonnative oysters unless the recommendations under the most current report by the National Research Council have been satisfied to the extent feasible and identified recommendations by the Chesapeake Bay Program have been fully met. The bills require DNR to report to the General Assembly, hold public hearings, complete a draft environmental impact statement, and obtain review and approval by an independent oyster advisory panel of scientific experts. A similar bill ([HB 430](#)) received an unfavorable report earlier.

Other bills that have passed both houses include:

- [HB 709](#) (passed) creating a poultry registration program in the Department of Agriculture aimed at preventing the spread of avian flu and protecting the identity of registrants unless disclosure is necessary for the protection of public health or to prevent the spread of disease;
- [HB 971](#) (passed) implementing some of the recommendations of the Task Force to Study the Economic Development of the Maryland Seafood and Aquaculture Industries. The bills coordinate and create new programs and responsibilities in the Department of Agriculture and DNR, addressing seafood marketing, aquaculture, and tidal fisheries. (The companion bill, [SB 283](#), passed second reading on the House floor);
- [HB 355](#) (passed) requiring a nontransient noncommunity water system (schools, daycare centers, shopping complexes, and businesses that regularly serve 25 or more of the same people

(students, employees, etc.) that maintain their own water system, and do not buy water from a larger water system) to test for the presence of methyl tertiary butyl ether (MTBE) and report if it exceeds the State advisory level determined by the Maryland Department of the Environment (MDE); and

- [HB 373](#) (passed), as amended, requires MDE to report on or before December 1, 2005, on the viability of alternatives to the use of MTBE in gasoline sold in the State and the effectiveness of the use of bacteria and other microorganisms to clean up oil and gasoline contamination of soil and groundwater.

Pending Legislation

Bills that have been amended in the opposite house include:

- [HB 374](#), as amended, requires MDE to notify the local health or environmental department of a finding that a groundwater monitoring well sample contains MTBE at a level of 20 parts per billion or higher, or benzene at or in excess of 5 parts per billion, or a combination of benzene, toluene, ethyl benzene, and xylene at or in excess of 100 parts per billion. The local health department must notify each owner of property that is located within one-eighth mile down-gradient from the site and serviced by a groundwater well. The bill also requires a person responsible for the contamination to reimburse the department for the costs associated with providing the notice and exempts the property owner from disclosing the notice of contamination upon sale of the property; and
- [SB 502/HB 1334](#), relating to the establishment of a Critical Farms Program, provide interim or emergency financing for the acquisition of agricultural preservation easements on critical farms identified by a county that would otherwise be sold for nonagricultural uses. [SB 502](#) now requires the Maryland Agricultural Land Preservation Foundation (MALPF) and the Department of Planning (MDP) to examine the options for establishing a Critical Farms Program, develop criteria for counties to consider, and submit a report and proposed legislation. [HB 1334](#) now requires MALPF and MDP to establish such a Critical Farms Program by October 1, 2006. The bill requires MALPF and MDP to study the options available for funding the program and submit a report with proposed legislation by January 1, 2006.

FINANCIAL INSTITUTIONS AND COMMERCIAL LAW

The House passed its version of legislation ([HB 551](#)) regulating the sale of gift certificates and gift cards. As defined, gift certificates may not be sold that, within three years of the date of purchase, is subject to expiration or a fee of any kind. Expiration dates and postsale fees are permitted for gift cards as specified in the bill. The bill has an effective date of July 1, 2006. Similar amendments have been added to [SB 8](#) by the House.

Heard by a House committee, [SB 590](#) regulates the activities of immigration consulting services, grants a private right of action to individuals injured by violations of the bill, and makes a violation of the bill a misdemeanor. Similar legislation, [HB 691](#), passed the House.

Similar bills ([SB 280](#) and [HB 56](#)) prohibiting specified disclosures of an individual's Social Security number (SSN) each have amendments from the opposite side. Violation of these bills is an unfair or deceptive trade practice under the Maryland Consumer Protection Act.

FISCAL MATTERS

Budget Legislation

The Budget Bill, [HB 150](#), is still in conference committee, as is [HB 147](#), the budget reconciliation bill. Because the Budget Bill did not pass by April 4, the 83rd day, the Governor issued an executive order extending the session during which the General Assembly may only consider the Budget Bill and the expenses of the extended session. The General Assembly may continue to consider and pass other legislative measures through Monday, the 90th day.

The Senate passed [HB 340](#), the "Maryland Consolidated Capital Bond Loan of 2005," without changing the \$665.4 million authorization amount adopted by the House. The Senate restored the funding authorization levels for projects that the House moved to the Budget Bill, except the \$7 million for the Maryland Economic Development Assistance Fund which remains in the Budget Bill. The capital budget bill is now in conference committee to resolve the differences. The major differences between the House and Senate's capital budget plans include:

- School construction—the Senate authorized \$200 million for school construction; more than the Governor's \$157.4 million, but less than the House's

\$250 million. The Senate placed \$184.2 million in [HB 340](#), and retains the \$2.4 million for the program in special funds and \$15 million from the school construction contingency fund;

- Higher Education—the Senate increased community college capital project funds by \$500,000 to \$44.4 million and restored the \$1.1 million for the Anne Arundel Hall reconstruction at St. Mary's College;
- Land Preservation Programs—the Senate restored the Community Parks and Playgrounds Program to the original \$5 million authorization from the \$3 million included in the House version and increased the Rural Legacy Program from \$2 million to \$3 million;
- Housing and Community and Economic Development Programs—the Senate restored funding authorizations to the capital bond bill for the Community Legacy Program at \$5 million, Rental Housing at \$6 million, and Partnership Rental Housing Program at \$6 million;
- Environment—the Senate restored authorizations for these programs to the capital bond bill at the same funding levels, but retained the House \$4 million reduction to the Chesapeake Bay Water Quality Project Funds;
- Public Safety—the Senate restored authorization of \$10.2 million for the new State Police barracks at Hagerstown; and
- Local Projects—the Senate added \$12.5 million in local projects identified by the Senate to the \$12.5 million for projects already listed by the House.

Tax-Free Shopping

Two bills are advancing toward passage. [HB 37](#), designating a statewide sales tax-free period for clothing priced under \$100 from August 23, 2006, through August 27, 2006, is back in the House with Senate amendments. [SB 599](#), the crossfiled legislation, is in the House after passing the Senate. As introduced, the bills applied only in enterprise zones and provided a tax-free period from August 24 through August 28, 2005. Another bill, designating one weekend in August each year as a sales tax-free weekend for the purchase of clothing, school supplies, or computers costing under \$1,000, never moved from the first committee ([SB 374](#)).

Hurricane Isabel Relief

Legislation granting property tax relief to a homeowner whose home was damaged or destroyed by a natural

disaster, especially Hurricane Isabel, passed both houses in different forms, after having been substantially amended in the House. As returned to the House, [HB 343](#) provides two local property tax credits. The first credit, for five years, is for 100% of the property tax attributable to the increase in the assessment of the damaged home after it has been repaired or reconstructed and then revalued with an increased valuation. The repair or reconstruction must be completed after September 18, 2003, the date of Hurricane Isabel, and before January 1, 2007. The second credit, for 50% of the property tax attributable to the increase in assessment, is limited to the homeowners who received the first credit with the same restrictions. This credit, for three years, starts when the first credit ends. Property receiving either of these credits is exempt from the State property tax. The Senate amendments make each credit mandatory rather than optional as passed by the House. [SB 199](#), now identical to [HB 343](#), is in a House committee.

Research and Development

A bill continuing the State's research and development income tax credit that expired in 2004 is out of a House committee. As passed by the Senate, [SB 217](#) grants credits for qualified research and development tax credits. This credit actually consists of two credits: a basic research and development credit equal to 3% of the Maryland qualified research and development expenses paid during the tax year, up to the Maryland base amount; and a growth research and development credit equal to 10% of the Maryland qualified research and development expenses paid during the year that exceed the Maryland base amount. Total approved credits for both credits combined may not exceed \$6 million. The bill as introduced had allowed for \$12 million in total approved credits.

Circuit Breaker Tax Credit

Under current law, the maximum assessment against which the Homeowners' Property Tax Credit, "the circuit breaker," may be granted is \$150,000. With a Senate second reading favorable vote, an amended [HB 1015](#) alters the calculation for the program by subtracting the homestead tax credit amount from the total assessment. In addition, the bill specifies additional eligibility criteria for the local supplement to the program, which include age, length of residence in the dwelling, rate of increase in the assessments, or any combination of these criteria. Other bills altering the calculation of the program are all either still in committee ([SB 181](#), [SB 631](#), and [HB 786](#)), have

received an unfavorable report ([HB 9](#), [HB 745](#), and [HB 1195](#)), or have been withdrawn ([HB 1101](#)).

GAMING, RACING, AND SPORTS

The legislature approved [HB 380](#) (passed) late in the week. The measure decreases the minimum distance from 800 to 400 yards that a person hunting wild waterfowl in specified tidal waters of the Potomac River while standing in water on the natural bottom, from a boat drifting or being sculled, or from an anchored boat.

HEALTH CARE AND HEALTH INSURANCE

Passed Legislation

Both chambers approved legislation repealing the May 31, 2005 termination date on the mandated health benefit for the coverage of the surgical treatment of morbid obesity, and establishing the Task Force to Study Utilization Review of the Surgical Treatment of Morbid Obesity ([SB 333](#) (passed)/[HB 462](#) (passed)). The Task Force is to report by December 1, 2007.

Enrolled bills, those with opposite chamber amendments that were accepted by the chamber of origin, include [SB 441](#)(passed)/[HB 317](#)(passed) that create the Task Force on the Establishment of a Prescription Drug Repository, and [HB 565](#) (passed), enabling bone marrow donation by individuals under the age of 18.

As approved, [SB 728](#) (passed)/[HB 1143](#) (passed) alter eligibility requirements for the Maryland Pharmacy Discount Program to cover individuals who earn less than 200% of the federal poverty level guidelines, do not have prescription drug coverage, and who are not eligible for Medicare. If approved by the federal government, this drug coverage could expand to an estimated 37,000 Marylanders.

Passed by the General Assembly, [HB 251](#) (passed) reduces, as of February 24, 2006, the elevated blood level that triggers notification by local health departments, lead hazard reduction requirements, and compensation to children for medical care and relocation, as well as strengthens enforcement authority by eliminating the 20-day grace period for violations, thereby authorizing the Maryland Department of the Environment to seek immediate administrative penalties.

Pending

Amid lengthy discussion and failed floor amendments, the Senate passed its version of the Fair Share Health

Care Fund Act ([SB 790](#)). Under the legislation that has moved out of a House committee, employers with 10,000 or more employees that do not spend at least 6% of total wages (for a nonprofit employer) or 8% of total wages (for a for-profit employer) on health insurance costs must pay the State an amount equal to the difference between what the employer spends on health insurance and the required percentage of total wages paid. Generated funds will be used to support the State's Medicaid program. The Senate bill has a delayed implementation date of January 1, 2007. A similar House measure, [HB 1284](#), is on the Senate floor with amendments and a preliminary okay.

The House passed its version of the Medical Decision Making Act of 2005 ([HB 1021](#)). This bill requires the Department of Health and Mental Hygiene to issue a Certificate of Life Partnership to a qualifying couple of the same or opposite sex for the purpose of conferring rights to make medical determinations in certain circumstances. House action on the similar bill, [SB 796](#), has moved the legislation to the House floor with amendments.

Defeated

A Senate committee rejected a House initiative ([HB 20](#)) that would have required an assisted living facility that serves 50 or more individuals to have an emergency electrical power generator on the premises. Also receiving an unfavorable report, [HB 199](#) would have required that the Maryland Health Care Commission's comparable evaluation system for hospitals and ambulatory surgical facilities to include health care-associated infection information from hospitals.

HUMAN RESOURCES

[SB 463](#) (passed) gained final approval. The measure makes eligible for food stamps all State residents who have been convicted of a drug-related felony and who otherwise qualify to receive food stamps, subject to substance abuse testing for two years.

REAL PROPERTY, ESTATES, AND TRUSTS

Real Property

The General Assembly approved three bills in the real property area:

- [SB 674](#) (passed)/[HB 921](#) (passed) allows code enforcement personnel to clean up property used for dangerous substance offenses before complaints are

filed. Prosecutors and community groups may file civil actions to abate drug nuisances. Owners or operators of these properties are required to submit a corrective plan to the court. If the owner or operator does not comply with the plan, the court can force the property to be vacated within 72 hours, though the owner retains ownership of it and may sell it. Additionally, the court may order the property to be sold or demolished and a community may sue owner-occupiers, residential or commercial tenants. The bill also grants the police authority to give an attorney representing the community association information about drugs seized on the property to aid in prosecution;

- [SB 480](#) (passed) and [HB 637](#) (passed) lower from 4% to 3% the amount of interest a mobile home park owner must pay a resident when returning a security deposit; and
- [HB 204](#) (passed) says a person submitting a deed for transfer without an intake sheet must mail or deliver the intake sheet. That sheet is then endorsed by the assessment office of the county. The intent of the bill is to streamline the recordation process in the transfer of ownership of real property.

Receiving a yea vote in the opposite chamber, [HB 522](#) (passed) requires homeowners' associations to consider reduced assessed values before setting association fees based on property values. [SB 192](#), with amendments, now goes back to the Senate. As amended, it requires a seller of a single family residential property to disclose to a purchaser information about known latent defects in a pre-purchase disclaimer or disclosure statement. A latent defect is one a buyer would not observe visually and would pose a health or safety threat. The crossfiled bill, [HB 412](#), received a favorable vote from a Senate committee.

Estates and Trusts

Passed are three estates and trusts bills:

- [SB 45](#) (passed), allowing a replacement or co-personal representative to be named in a will;
- [SB 51](#) (passed), as amended, allowing a personal representative to spend up to \$10,000 for the funeral of a decedent without a court order except in a small estate (with a value of \$30,000 or less) where the maximum allowance remains at \$5,000; and
- [SB 197](#) (passed), as amended, authorizing a Baltimore County Orphans' Court judge to practice law in a case outside the jurisdiction of the Orphans'

Court and unrelated to the administration of an estate or guardianship. It also grants a judge who is an attorney power to hold a court session on a day not named in an adjournment.

STATE GOVERNMENT

State Property

Two Senate bills, before a House committee early in the week, address the disposition of State property:

- **SB 102**, a proposed constitutional amendment, as amended by the Senate, prohibits the Board of Public Works (BPW) from approving the permanent disposition of outdoor recreation, open space, conservation, preservation, forest, or park land without the express approval of the General Assembly or of a legislative committee designated by the Assembly. (A proposed constitutional amendment requires approval by three-fifths of the elected membership to pass third reading, is not subject to gubernatorial approval or veto, and must be submitted to the voters at the next general election in 2006); and
- **SB 306** requires approval by the Legislative Policy Committee or, under certain circumstances, by the General Assembly through legislation before state-owned outdoor recreation, open space, conservation, preservation, forest, or other park land is eligible for disposition. The bill institutes a comprehensive determination before the disposition process including public notices and hearing with specific duties for the BPW and the Departments of Planning, Natural Resources, General Services, and Budget and Management. The process does not apply to transfers of property from the State to a local government for the purpose of outdoor recreation, open space, conservation, or preservation.

Another measure, **HB 4**, as amended and passed by the House and now in the Senate, also prescribes land preservation and State asset protection procedures, including notification and public information requirements, when the disposition of excess real property is outdoor recreation, open space, conservation, preservation, park, or forest real property owned by the State in fee simple. The bill prohibits the BPW from approving disposition of this real property and state-owned real or personal property funded by an appropriation of the General Assembly that has an appraised value of over \$100,000, unless certain steps

are followed, notice given, and a time period has elapsed.

Additionally, under certain circumstances, if the Legislative Policy Committee refers the proposed disposition of surplus property to the full General Assembly, the disposition by sale may not be approved by the BPW, unless approved by legislation during the next legislative session of the General Assembly. Also, under certain circumstances, if the BPW declares as surplus outdoor land that the State owns in fee simple, the land may be sold to local government for \$1. **HB 4** also amends provisions of the State transfer tax law to specify the distribution of those proceeds.

Last week a Senate committee voted unfavorably on other legislation (**SB 103** and **SB 104**) on the subject of land disposition. Other bills that did not advance this session on this subject included **HB 67**, **HB 903** and **HB 904** that dealt with the continued diversion of land preservation funds to the General Fund.

Maryland Veterans

Currently, there is no Maryland monument dedicated to women who have served in the U.S. uniformed forces. The General Assembly reached final agreement on **SB 619** (passed)/**HB 523** (passed) that creates a task force charged to identify and recommend the funding, design, construction, and placement of an appropriate monument and report its findings by December 2005.

The following veterans' measures also achieved final passage:

- **HB 22** (passed) extends the termination date to June 30, 2006, for the use of military administrative leave or specified paid leave for State employees who were on active military duty on July 1, 2003, or were activated for military duty on or after July 1, 2003. (The companion bill, **SB 31**, passed second reading in the House);
- **HB 30** (passed) grants an additional credit of two points on any selection test for appointments in skilled and professional services to an eligible veteran who has a service-connected disability; and
- **SB 823** (passed) requires the Secretary of State to issue a State flag to the family of a member of the military when the member is killed in the performance of duty and requires the flag to be presented by the Department of Veterans Affairs when the deceased is a member of the military. The Senate amended and passed the companion bill, **HB**

1226, to make it identical to the Senate version, but the House must agree to the amendments.

The Senate agreed to final passage of [HB 50](#) (passed) requiring the POW/MIA flag, created by the National League of Families of American Prisoners and Missing in Southeast Asia, to be flown on the State House grounds on certain days including Memorial Day, POW/MIA Recognition Day (the third Friday in September), and Veterans' Day. The flag is currently flown on certain days at the White House, U.S. Capitol, Departments of Defense, State, and Veterans' Affairs, Selective Service headquarters, major military installations, federal cemeteries, and post offices and year round at the Vietnam Veterans, Korean War Veterans, and World War II Memorials.

Legislation ([HB 3](#)) with a Senate committee hearing that assists Maryland's veterans:

- establishes a scholarship for veterans of the Afghanistan and Iraq Conflicts and for members of the reserve or Maryland National Guard who were activated as a result of the conflicts, as well for their children and spouses;
- clarifies the operational and administrative authority of the Maryland Department of Veterans Affairs (MDVA) and requiring MDVA to implement an outreach and advocacy program for veterans and their dependents; and
- creates a Task Force to Study State Assistance to Veterans that is to report this December and next.

Other measures on the threshold of passage, benefit veterans by establishing a Task Force on Assistance to Disabled Veterans Establishing Small Businesses. [SB 319](#) has been amended by the House and passed on third reading, and the Senate passed [HB 232](#) with amendments, so that now the bills differ in some respects.

Notaries

A House committee has not yet reported on the bill that will allow notaries to charge more for their services, up from \$2 to \$4 for an original act ([SB 400](#)). Other measures on notaries did not advance this session ([HB 51](#), [SB 602](#), [SB 657](#)).

State Agencies

The Senate did not approve [HB 801](#) that would have required the State's Information Technology Board to develop standards and recommendations concerning the security of computer systems used by State government

and to adopt regulations for the protection of information that the board receives while carrying out its powers and duties.

Still under consideration, [SB 257](#) restructures the membership of the Maryland Commission for Women, first established in 1965 to study and review the status of women in the State. Formerly, the 24 commissioners served by gubernatorial appointment, but under the bill the appointments are divided among the Governor, the Senate President, and the House Speaker. To the extent practicable, there must be geographic diversity among the membership. The bill also adds the duty to offer testimony on women's issues before legislative and administrative bodies. The bill is waiting for House action following a committee hearing.

Both proposals on the fate of the Office for Children Youth and Families (OCYF) were subject to scrutiny by committees in the opposite chamber late in the week. Under [SB 222](#), OCYF is to be extended for a year past its sunset date pending a task force report on its future. The House version, [HB 293](#), called for the redistribution of OCYF's duties to other State and local agencies. Both bills have been amended in the opposite chamber. Bills ([HB 1342](#), [HB 1343](#)) dealing with the Office of the Independent Juvenile Justice Monitor, currently under OCYF, were also afforded committee airings.

TRANSPORTATION

Minor Passengers of Young Drivers

Approval of [SB 57](#) (passed), if the Governor agrees, will result in a prohibition on provisional license holders who are under 18 from driving with passengers who are also under 18. As amended and passed, the prohibition is for 151 days after the provisional license is issued with certain exceptions. The prohibition is not applicable if the driver is accompanied by and under the immediate supervision of an individual who is at least 21, has been licensed to drive for at least three years, and is seated beside the provisional driver. The prohibition also does not apply to a passenger who is a relative. A violation is to be treated as a secondary action when a police officer detains a licensee for another violation, but the Motor Vehicle Administration (MVA) is authorized to revoke or suspend the license if there is evidence of a violation. [HB 393](#) is also poised to pass with the same language.

Practice Driving

Practice driving requirements for a holder of a learner's permit to be completed before application for a provisional license are headed toward incorporation into

Maryland law, if the Governor agrees. [HB 395](#) (passed) requires at least 60 hours, 10 hours of which must occur during the period beginning 30 minutes before sunset and ending 30 minutes after sunrise, of behind-the-wheel driving practice supervised by an individual who holds a valid driver's license, is at least 21, and has been licensed to drive for at least three years. The Senate companion bill, [SB 816](#), moved to the Senate but does not have a hearing date.

Use of Wireless Communication Devices

The prohibition on use of wireless communication devices while driving has been under discussion all session. [SB 50](#) passed third reading in the House with amendments. A conference committee has been appointed to try to resolve the differences in the House and Senate versions of [HB 394](#) that also concerns young drivers and the use of cell phones.

Extension of Licensing Timelines

Senate bills dealing with the timelines for obtaining licenses passed the legislature:

- [SB 209](#) (passed) provides that a permit holder can only apply for a provisional driver's license six months after first receiving the learner's instructional permit or committing a moving violation which resulted in a conviction. The MVA may not issue a provisional license to an individual who is younger than 16 years, 3 months, or a license to an individual who is younger than 17 years, 9 months ([HB 242](#), the original companion bill, passed the House, but no hearing is scheduled from the Senate side); and
- [SB 206](#) (passed) expands the prohibition against a person receiving a nonprovisional driver's license. The existing 18-month waiting period for an unrestricted license starts anew from the date of a violation of provisional driver's night driving restrictions or safety restraint restrictions or the date of restoration of the person's provisional driver's license or driving privilege that has been revoked or suspended ([HB 244](#), the original companion bill, passed the House but no hearing is scheduled in the Senate).

Commercial Drivers

The legislature passed both bills, [SB 640](#) (passed)/[HB 789](#) (passed), that comply with federal law by instituting new and stricter sanctions on those who operate commercial motor vehicles and the holders of commercial driver's licenses, and add uniform reporting

procedures. The changes were necessary by September 2005 to avoid loss of federal funding.

Alcohol and Drugs

[HB 103](#) (passed) gained final approval this week. The legislation institutes additional consequences for drivers who knowingly refuse to take a blood or breath alcohol test and are later convicted of an alcohol or drug related driving offense. The additional penalties, on top of any other penalties that may be imposed, are a maximum fine of \$500, imprisonment for up to two months, or both. The Senate companion measure, [SB 650](#), with the same language, had a hearing in a House committee this week.

Before a Senate committee this week, [HB 1392](#), which passed the House without a dissenting vote, increases the penalty for furnishing or allowing underage consumption or possession of alcohol from \$500 to \$1,000 for a first offense and for a subsequent violation from \$1,000 to \$1,500.

The House amended and passed on second reading one of the bills still pending that tighten laws related to young drivers who drive drunk or drugged. [SB 207](#), as amended, suspends the child's license to drive until the child is 21 years old or three years, whichever is longer. The bill now is identical to [HB 252](#) that remains in a Senate committee.

BWI Airport

Early in the week, Senate committee members considered and voted to amend the House-passed measure to rename Baltimore-Washington International Airport (BWI) as the Thurgood Marshall Baltimore-Washington International Airport ([HB 189](#)).

Chesapeake Bay Bridge

As passed by the Senate, [SB 625](#) establishes a 13-member Chesapeake Bay Crossing Advisory Committee, whose purpose is to study issues associated with traffic on both spans of the Chesapeake Bay Bridge and to make recommendations on ways to improve the flow of traffic on the bridges. No action has been taken in the House on this measure.

Bills that were aimed at helping to relieve the wait in long lines to cross the Chesapeake Bay Bridge were voted down in their respective committees:

- [SB 626](#) and [HB 1396](#) would have required the Maryland Transportation Authority (MdTA) to stop collecting tolls if traffic approaching the bridge was

so congested that eastbound vehicles were waiting 30 minutes or longer to cross the bridge;

- [SB 628](#) would have prohibited a vehicle combination of a tractor-trailer from being driven on a span of the bridge, if any lane on the bridge span contained a highway work zone; and
- [HB 336](#) that would have required the Mass Transit Administration (MTA) to establish a commuter bus line that crossed the Bay Bridge from Queen Anne's County to Anne Arundel County.

Rules of the Road

As passed by the Senate, [SB 158](#) permits the State Highway Administration (SHA), municipalities, counties, or bus transit operators to enter into contracts with commercial vendors to construct, operate, and maintain bus passenger shelters with commercial advertising signs on State rights-of-way. After a hearing, a House committee did not act as yet.

Defeated proposals include:

- [HB 937](#) that would have specified the duties of drivers when approaching a stopped, standing, or parked emergency vehicle using signals from the rear;
- [SB 149](#) that would have prohibited persons from parking or standing trailers or semitrailers on the side of State highways or controlled access highways unless attached to an appropriate towing vehicle;
- [HB 1092](#) and [SB 455](#) that would have specified that a local authority could not prohibit a candidate for elective municipal office from participating in a procession or assembly on a highway that had been authorized by the local authority; and
- [SB 81](#) that would have authorized the State Highway Administration to operate or grant a permit to operate motels, restaurants, gas station, or other automobile service stations along controlled access highways, if it was not prohibited by federal regulation.

<p>Bills that have passed both chambers of the General Assembly are noted as passed (passed) after the bill number.</p>
