



# The Legislative Wrap-Up

Library and Information Services, Department of Legislative Services

Issue 05-14

April 2005 – *Sine Die*

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## **SINE DIE**

The 2005 session ended at midnight on April 11 with 826 bills passed. There were 350 successful Senate bills and 476 House measures. During the session, bill introductions numbered 1,018 for the Senate with 11 joint resolutions and 1,614 bills for the House with 13 joint resolutions. None of the resolutions passed.

Governor Ehrlich signed 91 measures into law at the traditional *sine die* bill signing on Tuesday, April 12. Other bill signing ceremonies are scheduled for April 26, May 10, and May 26 from 10:00 a.m. to noon in the Governor's Reception Room, Maryland State House.

## **2005 SESSION ENACTMENTS**

In accordance with the Maryland Constitution, the Maryland Patients' Access to Quality Health Care Act of 2004-Implementation and Corrective Provisions ([SB 836](#)/Chapter 1), became law without the Governor's signature. The emergency bill makes changes to legislation enacted during the 2004 Special Session on medical malpractice and patient safety issues.

At the end of the 2005 session, three bills became law through legislative action to override the Governor's vetoes:

- International Trade Agreement – Procurement Rules – General Assembly Approval prohibits State officials, including the Governor, from binding the State to the government procurement rules of an international trade agreement except under specified circumstances ([SB 401](#)/Ch. 2 and [HB 514](#)/Ch. 3); and
- Elections – State Board of Elections – Membership Appointment Process and Authority over the State Administrator requires the Governor to appoint to the State Board an individual whose name is submitted by the State Central Committee of the principal political party entitled to the appointment, and the appointment of the State Administrator of Elections by the State Board is subject to the advice and consent of the Senate ([SB 444](#)/Ch. 4).

## **COURTS AND CIVIL PROCEEDINGS**

[SB 642](#) (passed) allows a court to decide whether to allow a homicide case to proceed when prosecutors unsuccessfully appeal a pretrial ruling suppressing evidence.

Failed legislation would have amended the Maryland Constitution to provide that only a marriage between a man and a woman is valid in Maryland ([HB 1220](#)) and would have made same-sex marriages that are validly entered into in other states or countries invalid in Maryland ([HB 693](#)).

### *Judges*

[SB 240](#)/[HB 236](#) (both passed) increase the number of judgeships in the circuit courts and District Courts of several counties and Baltimore City.

The General Assembly failed to amend within 50 days of introduction the judicial salary recommendations of the Judicial Compensation Commission ([SJ 3](#)/[HJ 1](#)), thus allowing the recommended yearly incremental increases over fiscal years 2006 through 2009 to automatically take effect. The final fiscal 2009 salaries are:

- \$181,352 for the Chief Judge of the Court of Appeals, a \$30,000 increase;
- \$162,352 for associate judges of the Court of Appeals, a \$30,000 increase;
- \$152,552 for the Chief Judge of the Court of Special Appeals, a \$25,000 increase;
- \$149,552 for associate judges of the Court of Special Appeals, a \$25,000 increase;
- \$140,352 for circuit court judges, a \$20,000 increase;
- \$149,552 for the Chief Judge of the District Court, a \$25,000 increase; and
- \$127,252 for associate judges of the District Court, a \$15,000 increase.

Legislation to alter provisions concerning the election of circuit court judges failed:

- [HB 271](#) would have amended the Maryland Constitution to provide for uncontested retention elections and decreased the term of office from 15 years to 10 years;
- [HB 276](#) would have allowed candidates who now would appear on the primary ballots for both Republican and Democratic voters to also appear on a third primary ballot created for unaffiliated registered voters;
- [SB 730](#) would have eliminated primary elections for candidates and provided for election at a general election on a nonpartisan basis; and
- [HB 700](#) would have added a candidate's party affiliation to the general election ballot. [SB 539](#) would have also required the ballot to note the incumbency of a candidate.

#### *Civil Actions*

[SB 413/HB 829](#) (both passed) 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.

[SB 347/HB 941](#) (both passed) alter the calculation of damages for the tortious injury or death of a pet and establish a damage cap of \$7,500.

#### *Child Welfare*

Under current law, there are no clear procedures for handling a child who is alleged to have committed a delinquent offense and is incompetent to face proceedings. [HB 802](#) (passed) establishes court processes for determining the competency of a child alleged to have committed a delinquent act. During the determination of a child's competency, a juvenile court must stay all proceedings. If the child is found to be competent, the stay is lifted, and proceedings on the child's petition continue. However, if a court determines that a child is unable to attain competency in the foreseeable future, the court may order that proceedings for involuntary admission be instituted or dismiss the delinquency petition or violation of probation petition. The bill also requires the Department of Health and Mental Hygiene, in coordination with other State agencies, to work with the Judiciary to develop training for judges, juvenile masters, and local agencies on available services.

[HB 935](#) (passed) alters Child in Need of Assistance (CINA) provisions to make it easier for a relative of a CINA to gain custody or guardianship of the child.

Failed legislation would have required the Department of Human Resources to better track and monitor foster children, improve the child-to-caseworker ratio, create a training academy for social workers, and make other improvements to various aspects of the child welfare program ([HB 1197](#)).

#### *Domestic Violence*

The type of abuse for which relief may be sought under a protective order is expanded to include stalking under [SB 263](#) and [HB 327](#) (both passed).

Failed legislation would have increased the maximum effective period of a protective order ([SB 259](#)) or increased the maximum period of extension of a protective order ([HB 328](#)).

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## **CRIMES, CORRECTIONS, AND PUBLIC SAFETY**

The Department of State Police must investigate any death suspected to be a homicide of a prisoner in the custody of the Division of Correction under [SB 394](#) (passed).

A Task Force to Study Identity Theft established by [SB 43](#) (passed) must submit a final report by the end of next year.

#### *Witness Intimidation*

Successful legislation includes:

- [SB 122](#) (passed) that establishes a felony crime of witness intimidation with enhanced penalties;
- [SB 188](#) (passed) that establishes a narrowly defined hearsay exception that allows 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;
- [SB 643/HB 1208](#) (both passed) that allow the use of wiretaps or electronic surveillance in a criminal investigation of witness or juror intimidation under certain circumstances; and
- [SB 645/HB 1218](#) (both passed) that permit a judge to authorize an electronic interception that may provide evidence of witness or juror intimidation.

### Other Crimes

**SB 548** and **HB 610** (both passed) allow the use of wiretaps or electronic surveillance in car theft investigations, if the intercepting device is placed in a vehicle suspected to be a target of theft. A car theft victim may submit an affidavit to be used as evidence in the trial of the alleged thief, in lieu of appearing in person, after earlier swearing to the affidavit in open court under **SB 827** (passed).

Legislation passed to establish new crimes or alter the scope or penalty of a crime:

- **HB 692** (passed) expands hate crime offenses to include crimes based on the sexual orientation of another person;
- **SB 488/ HB 849** (both passed) establish misdemeanor criminal gang offenses, require 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, and allow a presentencing report for a defendant convicted of a gang-related crime to include information about the defendant's gang affiliation;
- **HB 398** (passed) allows the prosecution of murder or manslaughter of a viable fetus;
- **SB 47** (passed) creates the felony crime of second degree assault on an on-duty law enforcement officer;
- **SB 91** (passed) increases 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; and
- **SB 579** (passed) and **HB 663** (passed) increase the maximum penalty for robbery or attempted robbery if the crime is committed by displaying a note claiming the robber has a dangerous weapon.

### Law Enforcement

**HB 402** (passed) requires distributors of ammonium nitrate fertilizer to maintain for at least two years a record of all sales or distributions of the fertilizer. The information in the record may be disclosed to a government office charged with protecting public safety.

Other successful legislation includes:

- **SB 213/ HB 240** (both passed), to expand 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;
- **HB 577** (passed), to authorize judges to issue "no knock" search warrants that allow police officers to enter and search a premises without first giving notice of their authority or purpose;
- **SB 208** (passed), to increase the membership of the Criminal Justice Information Advisory Board and to require it to recommend regulations to ensure the compatibility and interoperability of communication and information management systems maintained by State, county, and municipal public safety units; and
- **SB 216/ HB 241** (both passed), to enact and ratify 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.

**HB 300** (failed) would have prohibited a law enforcement agency from establishing a quota for making arrests or issuing citations or from using the number of arrests made or citations issued as the primary criterion for an officer's promotion, demotion, dismissal, or transfer.

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## ECONOMIC AND BUSINESS ISSUES

### Economic Development

Passed by the legislature and now on the Governor's desk, **SB 566/ HB 1450** (both passed) will help the 15 wineries in Maryland market their wine in the State. The legislation 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. Also passing, **SB 565** (passed) 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](#)) (failed).

Efforts to attract more commercial movie and video industry productions to the State were successful. [SB 215/HB 253](#) (both passed) provide for a rebate to qualified film production companies on the first \$25,000 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.

Bills ready for the Governor's approval 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](#) (both passed) require the Governor to appropriate \$250,000 next year and thereafter \$750,000 annually for the SBDC. 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.

Also obtaining legislative approval, [SB 148/HB 674](#) (both passed) alter several programs of the Maryland Small Business Development Financing Authority (MSBDFA) that support small and minority-owned businesses in Maryland. The bills increase the maximum amount of loan guarantees from the Contract Financing Fund to \$1 million, increase the maximum amounts of a bid, performance, or payment bond to \$1.35 million and direct issue bonds to \$1 million under the Small Business Surety Bond Program, increase to \$1 million the equity participation financing by MSBDFA, and expand the scope of businesses eligible for assistance under the Equity Participation Investment Program.

Another successful small business-related measure establishes the Task Force on Assistance to Disabled Veterans Establishing Small Businesses. Under [SB 319/HB 232](#) (both passed) the task force will identify the number of disabled State veterans who would benefit from state-awarded contracts for newly established small businesses; identify existing programs, services, laws, and regulations that can assist disabled veterans establishing small businesses; and make recommendations regarding implementation of an initiative to assist disabled veterans establishing small business.

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.

Both houses agreed to bills making identical changes to tax benefits for artists in arts and entertainment districts. [SB 794/HB 1006](#) (both passed) alter the definition of a qualifying resident artist by expanding eligibility to artists that own or rent real property in the county where an arts and entertainment district is located. Under current law, eligibility is restricted to owning or renting residential property in the arts and entertainment district. The bills also require that the artistic work be produced, not only sold, in the arts and entertainment district and expand the types of buildings in such districts for which a property tax credit may be granted.

With approval of [HB 449](#) (passed), the General Assembly revives and codifies the Live Near Your Work program in the Department of Housing and Community Development (DHCD). The Live Near Your Work program was established by regulation in 1997 as a cooperative effort by the State, participating local jurisdictions, and participating employers to provide an incentive for employees to purchase homes near their workplace or in targeted neighborhoods. The program offers matching grants of at least \$1,000 each from the State, local government, and private employer. Also under the bill, DHCD will administer a second homebuyer assistance program that assists buyers to receive low-interest mortgages with down payment and closing cost assistance for the purchase of new or existing homes near their workplace. The program will coordinate with and match where appropriate similar programs offered by private employers and county and municipal governments.

Other bills extending the work of special study groups are on their way to the Governor following General Assembly approval:

- [SB 684/HB 286](#) (both passed) extends the work of the Task Force to Study the Dynamics of Elderly and Retiree Migration Into and Out of Maryland to May 31, 2006;
- [HB 963](#) (passed) extends to June 30, 2006, efforts of the Task Force on Broadband Communications Deployment in Underserved Rural Areas; and
- [HB 797](#) (passed) extends until December 31, 2007, the Maryland Military Installation Strategic Planning Council, which is charged with examining issues related to the expansion of military installations and

preparing for the U.S. Department of Defense Facilities Initiative that begins this year.

Another successful bill that extends the Maryland Military Installation Strategic Planning Council until December 31, 2008, also provides for the creation of local redevelopment authorities (LRAs). As approved, [HB 1548](#) (passed) authorizes the Secretary of Business and Economic Development to create LRAs as State instrumentalities to develop military installations slated for closure or realignment and establishes powers and obligations for such authorities. These LRAs are modeled on the existing statutes governing Bainbridge Redevelopment Corporation and Penmar Redevelopment Corporation. The LRAs are intended to accelerate the transfer of facilities and sites from the federal government into productive reuse to create economic opportunities.

Among the measures that failed to gain legislative approval this session were bills that would have:

- authorized DHCD to provide financial assistance to community development financial institutions (CDFI's) to invest in low to moderate-income housing ([HB 966](#));
- authorized a CDFI to enter into equity sharing agreements with homebuyers as a neighborhood intervention project ([HB 968](#));
- expanded the existing Neighborhood and Community Assistance Tax Credit Program by including real property contributions, opening the credit to individuals and trusts, and increasing the maximum value of the credit from \$125,000 to \$250,000 ([HB 1204](#));
- established a task force to study the number of minority-owned car dealerships ([HB 631](#)); and
- established a task force to study the impact of illegal immigrants on the job market in the State and the feasibility of adapting migrant agricultural laborer laws to restaurants, hotels, and related industries ([HB 1174](#)).

### *Energy and Public Utilities*

The legislature agreed to several measures encouraging the use of alternate or renewable fuels to generate electricity or to make it easier to construct small capacity generating stations.

One measure 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. The customer is then given credit for the electricity it generates on its monthly bill from the electric company.

[SB 740/HB 1346](#) (both passed) establish a Renewable Fuels Incentive Board within the Maryland Department of Agriculture. The board will oversee a program, limited to 10 years with payments beginning in 2008, 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.

Also earning legislative approval, [SB 505](#) (passed) adds an exemption for construction of an electric generating station with a capacity not exceeding 25 megawatts and at least 10% of the electricity generated is consumed on-site from obtaining a certificate of public convenience and necessity (CPCN) from the Public Service Commission (PSC) prior to construction. Though exempt from the CPCN process, the PSC must approve the construction, ensuring the safety and reliability of the electric system.

Purchasers of geothermal heat pumps may be eligible for a \$1,000 grant from Maryland Energy Administration, if the Governor signs [SB 361](#) (passed).

A couple of proposals that failed to gain Senate approval would have:

- expanded 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 ([HB 975](#)); and
- established an Energy-Saving Investment Program consisting of energy efficiency programs, renewable energy projects, and an investment fund to save energy and reduce energy costs and pollution ([SB 397/HB 490](#)).

Legislation that would have prohibited a cellular telephone service provider from including the cellular number of a subscriber in a telephone directory without consent of the subscriber failed ([SB 708](#) and [HB 1260](#)).

### *Insurance*

Two House measures received final approval:

- [SB 507/HB 617](#) (both passed) prohibits a life insurer from refusing to insure or continue to insure someone solely for reasons associated with the individual's past lawful travel experiences. It also

prohibits limiting the amount, extent, or kind of coverage available or charging an individual a different rate for the same coverage; and

- [HB 160](#) (passed) requires continuing education on flood insurance for an insurance agent licensed to sell property and casualty insurance and who sells homeowner's insurance.

Other bills related to homeowners' insurance that did not gain legislative approval included:

- [SB 387](#) that would have established a voluntary mediation process in the Maryland Insurance Administration between a consumer and an insurer for the settlement of claims involving property damage and the determination of the loss value of the property;
- [SB 388](#) that would have required insurers to provide applicants with a written notice that a standard homeowner's insurance policy does not cover losses from flood;
- [SB 436](#) that would have added flood insurance policies issued in the State to those subject to the Unfair Claim Settlement Practices Act;
- [SB 437/HB 64](#) that would have required a property and casualty insurer to provide a policyholder with an annual statement that summarizes coverages and exclusions (including losses from flood) under the homeowner's policy; and
- [HB 117](#) that would have required companies that sell homeowner's insurance to provide coverage for losses that result from mold or mold remediation.

House legislation that would have permitted an insurance company to conduct a motor vehicle liability pilot program that used rates, rules, underwriting standards, or forms that are not used in similar combinations by the company in the State did not win approval ([HB 1573](#)).

Legislation that would have required all-terrain vehicles, but not snowmobiles or vehicles used for farm purposes, to be covered by insurance failed ([HB 95](#)).

### *Labor*

One bill 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 sets the tip wage at 50% of the

minimum wage. House amendments to [SB 89](#) (failed) late in the session extended the increased minimum wage to State and local government employees and deleted provisions related to employer provided health insurance.

The bills [SB 712/HB 751](#) (both passed) that permit an employer to pay an employee's wages by crediting the wage to a debit card or "payroll card" passed. 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.

Legislation incorporating recommendations of the Unemployment Insurance Funding Task Force received final legislative approval. [SB 703/HB 798](#) (both passed) eliminate the unemployment tax surcharge assessed on all employers, create new tax rates that reflect experience rates, and increase the maximum weekly benefit for recipients from \$310 to \$340. The measures also establish a two-year oversight committee to monitor and report on the effect of the bill. Under federal law, each state must maintain an unemployment insurance trust fund from which unemployment benefits are to be paid.

Other unemployment insurance-related legislation approved this year 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 983](#)) (passed).

[HB 1567](#) (passed) 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.

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## **EDUCATION**

The Maryland General Assembly considered quite a number of measures related to many aspects of educating Marylanders at the college and university level for both undergraduate and graduate students and for the K-12, as well. Legislation in the higher education category addressed scholarships, as well as administrative matters, coursework, and issues related to tuition and funding. Other bills address adult literacy, primary and secondary educational concerns, teachers and principals, and the health and safety of students.

### Higher Education Scholarships

A Distinguished Scholar Program for community college transfer students is established under [HB 1304](#) (passed). A \$3,000 award is available for use at a four-year institution to qualified transfer students. The bill also allows the Maryland Higher Education Commission (MHEC) to award a nursing scholarship to a nursing student attending an out-of-state institution if the nursing student was accepted at an in-State institution but deferred due to a lack of capacity.

An emergency bill also addresses the shortage of nurses by expanding eligibility for nursing scholarships to allow qualifying students enrolling in out-of-state institutions of higher education to receive scholarships. In making the nursing scholarship awards, MHEC must give priority to students enrolling at institutions in Maryland. The bill also alters the service obligation for a nursing scholarship to allow a recipient to work for two years in Maryland in a half-time position to fulfill the obligation ([SB 511](#)) (passed).

For those students in the military, [SB 32](#) (passed) requires MHEC to grant a deferment from the service obligation component of a State scholarship for an individual who has been assigned military duty outside of the State or the spouse of an individual who has been assigned military duty outside the State.

Another bill alters current language guiding tuition waivers for members of the Maryland National Guard who attend public institutions of higher education in Maryland. The bill repeals the language that limits the tuition waivers to courses for which space is available ([SB 153](#)) (passed).

Two bills make adjustments in the Sharon Christa McAuliffe Teacher Education Award program that is geared to increase the teacher supply in areas of critical or geographic shortage. [HB 1235](#) (passed) expands eligibility for the program to students studying to become audiologists and speech language pathologists. The other measure requires the State Board of Education to establish separate eligibility criteria for applicants who earned an undergraduate degree prior to 1986 ([HB 1373](#)) (passed).

### Higher Education Administrative Matters and Coursework

A textbook consortium in the University System of Maryland is to assist University System institutions to receive volume discounts on the purchase of textbooks by students ([HB 70](#)) (passed).

To enhance access for blind individuals, development of a nonvisual access clause for use in the procurement of computer-based instructional technology is required for the University System of Maryland, St. Mary's College, and Community Colleges by January 1, 2007 ([SB 360/HB 1142](#)) (both passed).

[SB 487/HB 1283](#) (both passed) authorize 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.

A measure on its way to the Governor creates a Task Force to Implement Holocaust, Genocide, Human Rights and Tolerance Education to advise the University System of Maryland regarding a pilot program to study these issues ([SB 440](#)) (passed). An unsuccessful bill would have provided that American Sign Language be deemed a course in foreign language for purposes of academic credit and graduation requirements at public institutions of higher education, as well as in public high schools ([HB 586](#)) (failed).

With gubernatorial approval, property that is leased from the State and used to provide housing to students at public higher education institutions will be exempt from State and local property tax ([SB 901](#)) (passed). The bill also authorizes the institution to negotiate a payment-in-lieu of taxes agreement with local governments.

[HB 616](#) (failed) would have required MHEC to establish a written policy concerning campus solicitation of students at colleges by credit card marketers.

### Adult Education

[SB 384/HB 1045](#) (both passed) requires the Governor to include in the fiscal 2007 and 2008 State budgets an appropriation equal to an increase of \$1,500,000 over the fiscal 2005 appropriation. MSDE must distribute the funding as Literacy Works Grants to reduce the waiting list for adult education and literacy services.

Other legislation related to adult education included:

- [SB 597/HB 529](#) (both failed) that would have offered a tax credit for businesses or nonprofit organizations that provide adult literacy services to its employees;
- [SB 169](#) (failed) that would have established an Adult Education and Literacy Waiting List Reduction Fund

and a tax benefit under State personal and corporate income taxes for contributions to the fund.

#### *Community Colleges/Regional Higher Education Centers*

Several of Maryland's community colleges have established successful partnerships with four-year institutions of higher education to offer baccalaureate degrees from community college and regional higher education center sites. [HB 228](#) (Ch. 42) establishes a process for a regional higher education center or a community college to offer a baccalaureate degree program sponsored by an in-state or out-of-state four-year institution of higher education.

There are seven regional higher education centers in the State serving more than 6,000 students, including two operated by USM and five centers managed independently by two- and four-year public and private institutions. [HB 597](#) (Ch. 59), as recommended by MHEC, requires a regional higher education center to either be approved by MHEC or established in statute. In addition, each institution of higher education partnering in a regional higher education center must be approved to operate in the State by either MHEC or an act of the General Assembly. Further, the bill requires MHEC to ensure that each regional higher education center provides access to affordable higher education programs in an underserved area and responds to the needs of the area it serves.

There is also a Community College Students with Disabilities Task Force directed toward development of strategies and resources to help these students achieve education and employment goals ([HB 1236](#)) (passed).

#### *Primary and Secondary Education*

Local boards of education must develop a community resource list and distribute the list to 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 ([SB 806/HB 1074](#)) (both passed). The intent is to help suspended students to gain access to additional resources.

Procedures and timelines for the expeditious transfer of educational records of a child in State-supervised care must be established under [SB 426/HB 1259](#) (both passed). Each local board of education must establish a dispute resolution process to quickly address disputes related to the transfer of an educational record. The intent is to facilitate prompt enrollment in appropriate schools and prompt transfer of the educational records of these children.

A new requirement for the Maryland State Department of Education (MSDE) is to develop a plan for the accreditation of private providers of early learning programs and child-care programs that may provide full-day kindergarten classes or publicly-funded pre-kindergarten programs for low-income four-year old children ([HB 1491](#)) (passed). The Bridge to Excellence mandates that all school systems implement these programs by the 2007-2008 school year.

#### *Teachers and Principals*

Those measures that reached final passage include:

- [HB 995](#) (passed) that establishes a statewide Principal Fellowship and Leadership Development Program and authorizes the State Superintendent of Schools to select up to 10 principals per year to become fellows with an annual stipend of \$20,000 in addition to the fellow's normal salary;
- [SB 663/HB 1347](#) (passed) that specifies the circumstances under which retired teachers, principals, and supervisors of principals may be rehired without an earnings limitation (pension benefit offset);
- [SB 266](#) (passed) that increases from 500 to 750 the maximum number of teachers that the State Board of Education may select each year to pursue national certification under the National Board for Professional Teaching Standards; and
- [SB 268/HB 330](#) (both passed) that expands eligibility for the stipend that is awarded for achieving national certification. State stipends in an amount equal to the local grant for national certification must be paid to non-administrative certificated school employees who work directly with students or teachers at public schools.

#### *Health and Safety*

In response to concerns of childhood obesity and poor nutrition, [SB 473](#) (passed) requires that by August 1, 2006, all vending machines in public schools that sell items of minimum nutritional value must have and use a timing device to automatically prohibit or allow access to those machines in accordance with an established nutrition policy. The bill also requires health education programs to include instruction in the importance of physical activity. Another passed measure requires MSDE to hire a full-time Director of Physical Education to promote healthy activities ([SB 233](#)) (passed).

Other health concerns generated legislation that creates a Pilot Program to Study and Improve Screening Practices for Autism Spectrum Disorders administered by MSDE (SB 834/HB 579) (both passed). Additionally, each school system must adopt a written policy that authorizes a student to possess an asthma inhaler or other emergency medication used to relieve an airway constricting disease while at school, at a school-sponsored activity, or on a school bus (HB 143) (passed).

Under the school safety umbrella, HB 227 (passed) clarifies that local superintendents of schools must be notified by local law enforcement of arrests for reportable offenses involving public school students ages 5 to 20. Another bill focuses on the protection of students by providing a means of reporting bullying. HB 407 (passed) mandates that MSDE require local boards of education to report incidents of harassment or intimidation against public school students that occur on school property, at school activities or events, or on school buses. A student or parent, guardian, or close relative of a student may report an incident of harassment or intimidation. MSDE must develop a standard report form and local school boards must distribute copies of the forms to each public school.

MSDE must also seek federal funds for youth suicide prevention school programs under the Garret Lee Smith Memorial Act. In addition to existing requirements for local youth suicide prevention programs that receive State funding, local school systems that establish the programs must develop and implement mental health programs for students suffering from mental illness (HB 930) (passed).

Another measure of significance provides that if a court finds that a child is in need of assistance or supervision and commits the child to a local department of social services or the Department of Juvenile Services (DJS), the court may notify the county superintendent, the supervisor of pupil personnel, or any other designated official that the child has been committed to the local department or DJS. Upon receipt of a report from a school principal or head teacher that a student has been habitually truant without lawful excuse, the appropriate representative of the school system, following an investigation or intervention, must immediately notify the local department or DJS (HB 957) (passed).

## ELECTIONS AND ETHICS

### *Voters Rights Protection Act of 2005*

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 (SBE) is required to review its policies and procedures regarding election administration and to report by this December.

### *Ballot Verification Systems*

A number of proposals addressed ballot verification capability both for individual voters and for recounts. Two proposals that passed require the SBE to study independent ballot verification systems in the State, including at least one system that has a voter verified paper audit trail. A report is due by this December (SB 849/HB 479) (both passed).

### *Absentee Voting, Early Voting, and Write-in Votes*

Absentee voting on demand may become a reality, if the Governor agrees, under HB 622 (passed). The bill repeals the eligibility requirements for absentee voting, thus allowing any individual to vote using an absentee ballot unless prohibited by federal law.

A procedure for early voting in Maryland's primary and general elections also was approved. SB 478 (passed) requires each county to establish early voting polling places for eight hours each day, beginning the Tuesday before a primary or general election through the Saturday before the election.

A bill that would have required a local board of election to send, before each election, an absentee ballot to each disabled or elderly registered voter who has qualified to vote by absentee ballot at a previous election did not pass (HB 376) (failed), nor did another bill that would have instituted a one-stop process at specified times for registered voters to obtain and complete applications for absentee ballots and then to cast the ballots (HB 746) (failed).

SB 288 (failed) would have allowed write-in votes at primary, general, or special elections. Current law allows write-in votes only in general elections.

### *Voter Registration*

HB 723 (passed) is enabling legislation that authorizes the SBE to implement a statewide voter registration system in compliance with the federal Help America

Vote Act (HAVA) of 2002. The bill removes the authority of local boards of election to register voters and maintain their own county voter registry. The legislation also repeals provisions of State law prohibiting a signature from an inactive voter to be counted as a valid signature on a petition.

#### *Campaign Financing*

Crossfiled bills make campaign contributions given by an individual serving as an unpaid volunteer officer of a nonprofit organization attributable to the individual and not attributable to the nonprofit organization for the purposes of the disclosure and attribution requirements of State election law (SB 465/HB 178) (both passed).

The legislature did not agree to pass bills that would have changed the law related to public financing for qualifying candidates for the General Assembly with full funding to begin with the 2010 statewide primary and general election (SB 725/HB 1031) (both failed).

#### *Election Results*

HB 381 (passed) requires the State Board of Elections to make available for cost an electronic report of election results for each candidate or question voted on by precinct, by State legislative districts and subdistricts, and by each county.

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## **ENVIRONMENT, NATURAL RESOURCES, AND AGRICULTURE**

#### *Water Protection Measures*

The legislature passed bills this session to preserve the quality of the State's water. SB 405/HB 1250 (both passed) place restrictions on introducing nonnative oysters into the State's waters and establish criteria that must be followed. SB 283 and HB 971 (both passed) coordinate and create new programs and responsibilities in the Department of Agriculture addressing seafood marketing, aquaculture, and tidal fisheries. The bills also require the Department of Natural Resources to clean diseased oyster bars, provide clean shell for bars, and use hatchery-produced oysters to replant sites. A report by the Tidal Fisheries Commission and the Sport Fisheries Advisory Commission is due on December 1, 2006.

Three of the ten bills introduced to address the problem of groundwater contamination by the gasoline additive methyl tertiary butyl ether (MTBE) passed. These Administration bills create specific notification requirements to be followed when contamination is

discovered (HB 355 and HB 374) (both passed) and call for the Department of the Environment (MDE) to investigate and report on the feasibility of using alternative additives and remediation processes (HB 373) (passed).

Another measure taken to protect ground water creates a Statewide Computer Recycling Pilot Program (HB 575) (passed). The bill also creates a Statewide Computer Recycling Fund and a plan for the "take back" by manufacturers of used personal computers. A Department of the Environment report on the environmental and public health impacts of disposing of, and recycling, cathode ray tubes and a review of the effectiveness of the pilot program is due by December 1, 2008.

#### *Farmland*

Nearly two dozen bills would have made changes to the Maryland Agriculture Land Preservation Foundation (MALPF). Those that passed include:

- HB 74 (passed) to extend the time period from 30 days to 90 days within which a county is required to notify MALPF of approval of an easement termination request;
- HB 75 (passed) to designate the Secretary of Planning or the Secretary's designee as an *ex officio* member of the board of trustees of MALPF;
- HB 78 (passed) to clarify the authority of a county to deny certain applications under local land use regulations for land subject to an agriculture land preservation easement;
- HB 79 (passed) to establish a deadline for requesting arbitration of disputes over the value of easements under MALPF; and
- SB 502/HB 1334 (both passed) to require MALPF and the Department of Planning (MDP) to create a Critical Farms Program that will 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. MALPF and MDP first must examine the options for funding the Program, develop criteria for counties to consider, and submit a report with proposed legislation by January 1, 2006.

*Avian Flu*

**HB 709** (passed) creates a poultry registration program in the Department of Agriculture to prevent the spread of Avian Flu and protect the identity of registrants unless disclosure is necessary for the protection of public health or to prevent the spread of the disease.

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**FINANCIAL INSTITUTIONS AND  
COMMERCIAL LAW**

**SB 8** (passed) regulates the sale and issuance of gift certificates and gift cards in the State. Defined gift certificates may not be sold or issued that, within four years after the date of purchase, are subject to expiration or any fee or charge. For gift cards processed through a national credit or debit card service, an expiration date or postsale fee may be imposed if disclosed as specified in the bill. Violation of the bill falls under the Consumer Protection Act. The effective date of the legislation is July 1, 2006.

Successful legislation (**SB 280/HB 56**) (both passed) prohibits specified disclosures of an individual's Social Security number (SSN). Violation of the bill is an unfair or deceptive trade practice under the Maryland Consumer Protection Act. The effective date of the legislation is January 1, 2006. A person that uses an SSN prior to January 1, 2006, in a prohibited manner may continue to do so if the use is continuous and the person provides an annual disclosure form stating an individual's right to stop the use of the individual's SSN. A written request to stop using the individual's SSN in a prohibited manner must be honored within 30 days after receiving the request.

In its final version, **HB 753** (passed) makes changes to the application and licensing requirements under the Maryland Debt Management Services Act. Deleted amendments had authorized for-profit entities to provide debt counseling services. The bill now requires the Commissioner of Financial Regulation and the Attorney General to study the impact of the Act on consumers and debt management services providers in the State, how these services are regulated elsewhere in the country, and the impact of authorizing persons who are not non-profit organizations to operate in the State. Recommendations to the General Assembly are due by December 31, 2006.

Under the provisions of **HB 691** (passed), the activities of immigration consulting services are regulated. Additionally, the bill grants a private right of action to individuals injured by violations of the bill to recover

any fees, specified attorney's fees, and damages. Violation of the bill is a misdemeanor.

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**FISCAL MATTERS**

The \$25.9 billion Budget Bill, **HB 150** (passed), as passed by the General Assembly, reduces appropriations from the Governor's proposed amount by \$600.8 million, including \$309.5 million in bond refunding money, which is not a necessary appropriation in the Budget Bill.

Although the Budget Bill increases appropriations by \$1.6 billion for fiscal 2006 over fiscal 2005, an increase of 6.5%, the budget is still \$400,000 below the legislature's Spending Affordability Committee's spending guidelines. The Budget is balanced by reductions to the Governor's allowances, and by actions taken in the "Budget Reconciliation and Financing Act" (BRFA) (**HB 147**) (passed), through transfers to the General Fund from other funds, fee increases, and tax changes.

The Budget Bill becomes law immediately upon passage with no further action required by the Governor. It is the only bill, other than constitutional amendments, over which the Governor has no veto authority. Budget highlights address the following areas:

- Education—\$3.6 billion is allocated in direct aid to education, a \$389 million (12%) increase, but the Extended Elementary Education Program, which expires in 2008, was reduced by \$2.4 million;
- Nonpublic School Textbook Aid—\$2.9 million is allocated for nonpublic school textbook aid with authorization for an additional \$1 million in **HB 147**, if the Cigarette Restitution Fund has at least \$135.1 million;
- Higher Education—\$883.6 million is allocated, a \$63 million (7.7%) increase for the State's colleges and universities;
- Medical Assistance—\$4.2 billion is allocated to medical assistance after a legislative reduction of \$37 million for a physician rate increase, which was already funded through legislation from the recent Special Session, a reduction of \$8 million for provider reimbursements reflecting savings from a prescription drug pool, and a reduction of \$46 million for a managed care rate increase. Provisions in **HB 147** make permanent the requirement that 30% of Cigarette Restitution Funds be used for medical assistance. Additionally, **HB 147** exempts

nonprofit HMOs from the insurance premium tax with the requirement that the HMO transfer an amount equal to the value of the tax to the medical assistance program account;

- Mental Health—\$808 million is allocated for mental health programs, including \$431.8 million for mental health community services for Medicaid patients, \$109.4 million for community services, and \$257.6 million for State psychiatric centers;
- Program Open Space and Land Acquisition Programs—\$83.9 million is allocated for Program Open Space including \$73.3 million (\$35 million for local aid) for land acquisition programs through [HB 147](#). Also, \$13.6 million is allocated for the Rural Legacy Program, and \$43.7 million for the Maryland Agricultural Land Preservation Program;
- State Employees—a position cap of 52,686 State positions is established in non-higher education, 301 positions are eliminated with another 179 required to be eliminated, and the cost of living adjustment (COLA) is reduced from 2% to 1.5%. Funds from the eliminated positions and reduced COLA are to be used, along with health insurance program restructuring under [HB 147](#), to close the \$128.9 million gap in the Governor’s original proposal for the employee and retiree health insurance subsidy. The subsidy is needed to continue benefits with the current level of co-pays and employee premiums;
- Lead Poisoning Prevention Program—\$350,000 of the program appropriation is restricted to a grant to Baltimore City for lead enforcement activities;
- Film Production Wage Tax Credit Program—\$4 million is allocated, reduced from \$6 million, contingent upon the enactment of [SB 215/](#)[HB 253](#) (both passed);
- Transportation—\$3.7 billion is allocated for transportation services and projects after a legislative reduction of \$48.5 million (transferred to the General Fund in [HB 147](#)) in local highway aid and another reduction of \$60 million in unneeded capital grants for the Washington Metropolitan area;
- Office for Children Youth and Families—OCYF is eliminated along with 21 positions and \$800,000 in reduced funding, contingent upon failure of [SB 222](#) (failed) to extend the office that is due to sunset July 1, 2005. Some personnel and functions are transferred to other agencies by [SB 759/](#)[HB 932](#) (both passed) and by [HB 1342](#) (passed);
- Property Tax—the State property tax is not reduced, but language in [HB 147](#) states that a reduction for fiscal 2007 to the extent fiscally prudent is to be considered; and
- Electricity Generating Equipment Property Tax Grant—\$30.6 million grant going to local governments is intact, but Budget Bill language indicates the intent to phase out this grant.

The “Budget Reconciliation and Financing Act,” [HB 147](#), also addresses:

- Fees that, for the next five years, impose a \$45 per month fee for individuals in the Drinking Driver Monitor Program and increase the fee for probationers to \$45 per month. The bill also increases court costs in criminal and traffic cases to \$22.50, and continues for one year the higher level of health industry fees to support the Maryland Health Care Commission and the State Health Services Cost Review Commission;
- Education that continues the increased local share of expenses (25% rather than 20%) for nonpublic placement of children with disabilities through fiscal 2006, and eliminates children in regional institutes for children and adolescents from the formula;
- The Cigarette Restitution Fund that provides \$8.7 million for an evaluation of the fund and for grants to academic health centers for cancer and tobacco-related disease research. Starting in fiscal 2007, the Governor is to include in statewide academic health center grants at least \$10.4 million each year for cancer research grants, \$2 million for tobacco disease-related grants, and \$3 million for cancer and tobacco-related disease prevention, education, and screening; and
- Taxes that modify tax provisions to increase compliance and that increase the pass-through entity tax rate for partnerships, S-corporations, and limited liability companies with nonresident partners, shareholders, or members and extends the tax to nonresident entity members. [HB 147](#) also permits reciprocal agreements with local governments to intercept tax refunds for taxes owed by a vendor, imposes withholding for retirement fund rollovers when there is federal withholding, and requires all undisputed taxes be paid before an insurance agent’s license is renewed.

### Capital Budget Plan

The General Assembly approved the “Maryland Consolidated Capital Bond Loan of 2005” ([HB 340](#)) (passed), authorizing \$665.4 million in State bond issuances as part of the State’s \$1.1 billion capital budget plan. The rest of the plan consists of \$5 million in general obligation bond funds for tobacco transition authorized by Chapter 103 of 2001, and \$423 million in special funds, federal funds, and revenue bonds in the Budget Bill ([HB 150](#)). Transportation projects are not included in these figures.

Major projects and authorizations in [HB 340](#) include:

- Public school construction—\$234.2 million is authorized for public school construction, plus \$2.4 million from a special fund and \$15 million from the school construction contingency fund for a total of \$250 million;
- Higher Education—\$196.7 million in bonds is authorized for State university and college capital projects including \$46.9 million for the Shady Grove Educational Center III, \$51.6 million for various projects at Coppin State University, \$1.1 million for the Anne Arundel Hall renovation at St. Mary’s College, \$44.4 million in community college capital grants, and \$1.3 million for Montgomery College;
- Health—\$8.1 million is authorized for community mental health facilities, \$2.4 million for federally qualified health centers, and \$5 million in grant authorizations for hospitals as recommended by the Maryland Hospital Association;
- Land Preservation Programs—\$4 million is authorized for the Community Parks and Playgrounds Program. The Rural Legacy Program received funds in the Budget Bill;
- Housing and Community and Economic Development Programs—\$5 million is authorized for the Community Legacy Program, \$5.4 million for the Rental Housing Program, and \$6 million for the Partnership Rental Housing Program. There is \$9 million for the Maryland Economic Development Assistance Fund in the Budget Bill;
- Environment—\$20.2 million is authorized for the Chesapeake Bay Water Quality Project funds, \$7.6 million for the Maryland Water Quality Revolving Loan Fund, and \$2 million for the Maryland Drinking Water Revolving Loan Fund;
- Public Safety—\$17.5 million is authorized for local jails and \$10.2 million is eliminated for the new State Police barracks at Hagerstown, but inclusion is urged for next year. The Budget Bill contains \$36.2 million for the North Branch Correctional Institution; and
- Local Projects—\$25 million is authorized for local projects that were originally introduced as separate bond bills, but were incorporated into [HB 340](#).

### Property Taxes

Passed legislation grants property tax relief to a homeowner whose home was damaged or destroyed by a natural disaster, especially Hurricane Isabel. As approved, [SB 199/HB 343](#) (both passed) require 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, lasting for three years, starts when the first credit ends. Property receiving either of these credits is exempt from the State property tax.

Other successful property tax legislation changes the Homeowner’s Property Tax Credit Program popularly known as the “circuit breaker.” [SB 717/HB 1015](#) (both passed) alter the calculation of total real property tax for the Homeowners’ Property Tax Credit Program by subtracting the homestead tax credit amount from the total assessment. In addition, the legislation specifies additional eligibility criteria for the local supplement to the Homeowners’ Property Tax Credit Program, which include age, length of residence in the dwelling, rate of increase in the assessments, or any combination of these criteria.

If the Governor approves [SB 599/HB 37](#) (both passed), next year shoppers can take advantage of a statewide sales tax-free period for clothing priced under \$100 from August 23, 2006, through August 27, 2006.

A measure that continues the research and development tax credit, which sunsetted in 2004, was approved this session. [SB 217](#) (passed) grants credits for qualified research and development tax credits in Maryland. There is 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. The total for both credits combined may not exceed \$6 million.

Among the tax-related issues that were unsuccessful this session were bills that would have:

- increased the State corporate tax ([SB 403/HB 676](#), [HB 62](#), [SB 748/HB 1135](#)) (all failed);
- provided credit for investment in technology ([SB 218/HB 249](#)) (both failed); and
- exempted a portion of military retirement income from State income tax ([SB 211/HB 245](#), [HB 270](#), and [HB 1247](#)) (all failed).

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## GAMING, RACING, AND SPORTS

The General Assembly passed several measures related to hunting, including:

- [HB 380](#) (passed) that 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;
- [HB 608](#) (passed) that establishes a nonresident junior hunting license for those under 16 at a fee of \$65. It also sets the fee for a regular nonresident (at least 16 years of age) license at \$130; and
- [HB 1086](#) (passed), the Maryland Hunting Heritage Protection Act, that requires the Department of Natural Resources (DNR) to keep land managed by it open for hunting except under specified conditions. DNR must manage land under its authority to support, promote, and enhance hunting opportunities to the extent authorized under State law, and manage land under its authority to prevent, to the greatest practical extent, any net loss of acreage available for hunting opportunities.

Among hunting measures that failed this session are bills that would have:

- required an individual who a police officer had reasonable grounds to believe shot another individual while carrying a firearm to hunt while intoxicated or under the influence of alcohol or any

narcotic drug to submit to an alcohol and/or drug test ([HB 181](#));

- prohibited DNR from establishing an open season to hunt black bears ([HB 371](#));
- required DNR to introduce black bears throughout the State ([HB 463](#)); and
- extended to the entire State an existing prohibition on the use of steel-jaw leghold traps in Anne Arundel, Baltimore, Montgomery, and Prince George's counties ([HB 372](#)).

### *Racing*

Ready for the Governor's approval, [SB 720/HB 1029](#) (both passed) are emergency bills that provide 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 bills also alter payments from the racing special fund to provide additional funding for the Maryland Agricultural Education And Rural Development Assistance Fund, and the Rural Maryland Council.

### *Slot Machines*

All efforts to allow the operation of video lottery terminals in Maryland failed again this session. Two bills did make it to the opposite chamber, but no agreement could be reached on [SB 205](#) or [HB 1361](#).

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## HEALTH CARE AND HEALTH INSURANCE

### *Medical Malpractice*

In accordance with Article II, Section 17 of the Maryland Constitution, the Maryland Patients' Access to Quality Health Care Act of 2004-Implementation and Corrective Provisions ([SB 836](#)), became law without the Governor's signature (Ch. 1). This emergency bill makes substantive and technical changes to legislation enacted during the 2004 Special Session addressing medical malpractice issues and patient safety.

The Senate took no action on Quality Health Care Act of 2005 ([HB 114](#)) (failed) incorporating medical malpractice tort reform components, as well as establishing a Joint Legislative-Executive Task Force on Health Care Malpractice to meet during the 2005 interim and report to the Governor and General Assembly. No action by the General Assembly was taken on the

Administration's medical malpractice tort reform legislation ([SB 221/HB 301](#)) (both failed).

#### *Access to Health Care*

The Community Health Care Access and Safety Net Act of 2005 ([SB 716/HB 627](#)) (both passed) establishes the Maryland Community Health Resources Commission to increase access to health care for lower-income individuals and provide resources to community health resource centers around the State. The bills also duplicate language similar to the provisions to enhanced prescription drug coverage in [SB 728/HB 1143](#) (both passed).

The Fair Share Health Care Fund Act ([SB 790/HB 1284](#)) (both passed), imposes an assessment on certain employers based on the provision of health insurance coverage. Any revenues collected from the assessment must be deposited into the Fair Share Health Care Fund and used to fund the Medicaid program. An employer with 10,000 or more employees that does 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 Department of Labor, Licensing, and Regulation (DLLR) an amount equal to the difference between what the employer spends on health insurance and the required percentage of total wages paid. Wal-Mart has been identified as an employer with more than 10,000 employees that may be affected by the legislation.

#### *Prescription Drugs*

A number of bills passed this session address the issue of prescription drug coverage and availability for Maryland's residents.

A variety of changes are made to State drug assistance programs in relation to the new Medicare Part D prescription drug benefit. Medicare Part D beneficiaries with household incomes at or below 300% of the federal poverty level guidelines are eligible for State subsidies for their cost-sharing requirements under Medicare ([SB 282/HB 324](#)) (both passed). The bills take effect July 1, 2005. The provisions changing the Senior Prescription Drug Program and the Maryland Pharmacy Assistance Program take effect the later of January 2006 or on the availability of Medicare Part D drug benefits.

[SB 728/HB 1143](#) (both 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. An estimated 37,000 Marylanders may be eligible to participate. Federal approval is required.

Under the provisions of [SB 441/HB 317](#) (both passed), the 16-member Task Force on the Establishment of a Prescription Drug Repository Program must examine issues such as the types of drugs that may be donated, who may make or receive donations, standards and procedures for the program, inspection procedures, liability issues, and fees. The reporting date for the task force is January 1, 2006.

#### *Other Health Care Legislation*

The Medical Decision Making Act of 2005 ([SB 796](#)) (passed) establishes a registry in the Department of Health and Mental Hygiene of life partnerships to facilitate health decisions and emergencies. Registrants may be of the same or opposite sex and qualifications include sharing a common residence in the State. The bill also includes provisions for termination of the life partnership and specifically states that this Act may not be construed in any way to conflict with the public policy of the State that recognizes a valid marriage to be only a marriage between a man and a woman.

The Task Force to Study Electronic Records ([SB 251](#)) (passed) is to study electronic health records and the current and potential expansion of electronic health record utilization in Maryland, including electronic transfer, electronic prescribing, computerized physician order entry, and the cost of implementing these functions.

Passed legislation regarding health insurance mandates includes repeal of morbid obesity termination date ([SB 333/HB 462](#)) (both passed) and the inclusion of smoking cessation treatment ([HB 303](#)) (passed).

With approval of [HB 1014](#) (passed), a self-employed individual or sole proprietor is not eligible for health insurance coverage in the small group market. Under specified conditions, enrollees prior to September 30, 2005, may remain covered. For other eligible individuals, access to health coverage is through the Maryland Health Insurance Plan that provides health benefits for medically-uninsurable residents. The legislation has a sunset date of September 30, 2008.

A Joint Legislative Task Force on Small Group Market Health Insurance ([SB 961/HB 1017](#)) (both passed) is established to study and make recommendations regarding small group market health insurance relating to rate adjustments, medical loss ratios, association health plans and the Limited Benefit Plan, and any other

issue the task force considers important. A report is due to the legislative committees by January 1, 2006.

The Statewide Advisory Commission on Immunizations ([HB 627](#)) (passed) is extended through May 31, 2008. Originally established by law in 2002, the commission must determine where community vaccine shortages exist and which vaccines are in short supply, develop a recommendation for a plan to equitably distribute vaccines, and study and make recommendations about other related issues.

[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. The measure also 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.

[SB 247](#) (passed) revises the optional health care decision making form contained within statute. Specifically, the bill clarifies that a health care agent is a personal representative and is entitled to act as such, provided that individual acts in accordance with the Health Insurance Portability and Accountability Act (HIPAA) to receive protected health information, and make an informed decision regarding an individual's health care when the individual's attending physician and a second physician determine the individual is incapable of doing so.

#### *Failed Legislation*

Measures that were not successful this session would have:

- implemented state-funded stem cell research ([SB 751/HB 1183](#));
- required the compilation and reporting of health care-associated infection information from hospitals ([HB 199](#));
- expanded the workplace ban on smoking to restaurants and bars ([SB 332/HB 428](#));
- required assisted living facilities serving 50 or more individuals to have an emergency electrical power generator on the premises ([HB 20](#));
- required nursing homes/assisted living facilities to have automated external defibrillator ([HB 21](#));
- reported clinical trial data ([SB 681/HB 54](#));

- posted in retail pharmacies prices of prescription drugs ([SB 723](#));
- established a Task Force to Study Lyme Disease ([HB 1323](#)) and promoted physician awareness of Lyme disease regarding current diagnosis and treatment ([SB 596](#));
- imposed an income tax surcharge on individuals whose incomes exceed certain thresholds and do not maintain minimum health coverage ([HB 813](#)); and
- imported or purchased prescription drugs through Canada or elsewhere ([SB 742/HB 231](#), [HB 65](#), [HB 176](#)).

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## HUMAN RESOURCES

[HB 254](#) (passed) allows disclosure of reports or records concerning child abuse or neglect to a licensed practitioner of a hospital or birthing center when a decision concerning the discharge of a child must be made and the practitioner suspects the child may be in danger after discharge based on observation of the behavior of the parents or immediate family members. The disclosed information is limited to whether there is a finding of indicated child abuse or neglect by either parent and whether there is an open investigation of child abuse or neglect pending against either parent. In addition, the Department of Human Resources must report on the feasibility of offering family counseling services to those who have had a finding of indicated child abuse or neglect and on the use and effectiveness of the disclosure provisions in the bill.

[SB 463/HB 1024](#) (both passed) make 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.

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## REAL PROPERTY, ESTATES, AND TRUSTS

The General Assembly passed 15 bills governing real property this session. On April 12 the Governor signed:

- [HB 204](#) (Ch. 35) that streamlines the deed recordation process from three steps to two. It also changes inconsistent provisions of the law governing intake sheets which accompany a deed presented for recordation;
- [HB 522](#) (Ch. 55) that requires a homeowners' association that bases its annual fees on assessed

value to take into account any reduction in assessment before levying its fees. This regulation applies only to a development of at least 13,000 acres with a population of at least 80,000; and

- **SB 480** (Ch. 23) that reduces from 4% to 3% the amount of interest on a security deposit a mobile home park owner must pay a vacating tenant. Its companion, **HB 637** (passed), also passed but no action has yet been taken on it.

Also approved by the General Assembly were:

- **SB 192/HB 412** (both passed), which requires the seller of a residential property to disclose on a form provided by the State Real Estate Commission latent defects a purchaser would not observe visually and that pose a health or safety threat;
- **HB 657** (passed) which protects security deposits held by a landlord from attachment by a landlord or a tenant's creditors;
- **SB 674/HB 921** (both passed), which governs abatement of drug-related nuisance properties. A District Court may order the nuisance property owner or manager, if he is aware of the nuisance, to submit a corrective plan. If an owner or an owner-occupier refuses to abate the nuisance in a residential or commercial property, the court can order the property to be vacated within 72 hours and remain unoccupied for up to a year or until the property is sold in an arm's length transaction. If it is unfit for habitation or the restitution costs of the property exceed its value, the court can order it to be demolished. In addition, the statute allows a policeman or municipal attorney to disclose information about drugs seized on the property to a community association or its attorney, an owner or tenant or a municipal attorney in order to aid in the prosecution of the offender;
- **HB 1421** (passed), which repeals the requirement that a circuit court clerk retain a mortgage or deed for 25 years after it has been released with proper endorsement;
- **SB 130** (passed), which allows the Maryland Transit Authority (MTA) to enter private property while conducting engineering or environmental studies;
- **SB 229** (passed), which establishes a Task Force on Common Ownership Communities to study the education and training needs of their boards and of new prospective owners; alternative dispute resolution services for them; the desirability of

adopting provisions of the Uniform Common Interest Ownership Act (1994); issues facing aging communities; issues relating to collection of assessments; and issues relating to the resale of units by owners;

- **SB 761** (passed), which regulates lenders known as foreclosure consultants, purchasers, and surplus purchasers. Homeowners in these transactions must be given bold print disclosures of their risk of losing their home in the transfer of property to a foreclosure specialist and consumer protection numbers to call for information. Homeowners have 10 days to rescind a deal, and if the property is sold by a foreclosure specialist within 18 months of the deal, the homeowner is entitled to 82% of the net proceeds.

Four of seven proposed bills in the estates and trusts arena were approved by the legislature. They are:

- **SB 3** (passed) that allows the rollover of a minor's custodial property to a trust with the consent of the minor. That property can remain in trust after the minor's twenty-first birthday. Under the Maryland Uniform Transfers to Minors Act (UTMA), all or part of the custodial property may be transferred without a court order and the custodianship of the property then ends;
- **SB 45** (passed) that enables a person not expressly nominated in a will to be appointed as a replacement or co-personal representative secondary to someone specifically named in a will;
- **SB 51** (passed) that increases to \$10,000 the maximum amount a personal representative may spend for funeral expenses of a decedent without a court order. This increase applies to estates valued at over \$30,000; and
- **SB 197** (passed) that authorizes 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.

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## STATE GOVERNMENT

### *State Property*

Two bills passed that address the disposition of State property. **SB 102** (passed), a proposed constitutional

amendment, 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 November 2006.

The other approved measure, [SB 306](#) (passed), prescribes land preservation and State asset protection procedures, including notification and public hearing, information, and record-keeping requirements, when the disposition of excess real property is owned by the State in fee simple and is property acquired with Program Open Space funds or Rural Legacy Program funds, or acquired as public park land and recreational areas, wildland and open areas, heritage conservation areas, forest conservation areas, greenprint areas, and others as enumerated in the bill.

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. Under certain circumstances, the Legislative Policy Committee must review and approve the proposed disposition or refer the proposed disposition to the full General Assembly. In the latter case, 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 property as surplus, the land may be sold to the federal government or to a local government for \$1. The bill also contains stringent provisions related to budget actions, funding, and transfer tax revenues.

#### *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/HB 523](#) (both passed) that create a task force 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:

- [SB 31/HB 22](#) (both 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;
- [HB 30](#) (passed) grants an additional credit of two points on any selection test for appointments in the skilled and professional services of State government to an eligible veteran who has a service-connected disability; and
- [SB 823/HB 1226](#) (both 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 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.

Legislation failed that would have established 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. The bill also would have clarified the responsibilities of the Maryland Department of Veterans Affairs and created a Task Force to Study State Assistance to Veterans ([HB 3](#)) (failed).

#### *Notaries*

None of the bills applicable to notaries were successful. One would have allowed notaries to charge more for their services, up from \$2 to \$4 for an original act ([SB 400](#)) (failed).

#### *State Agencies*

[SB 257](#) (passed) 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 25 appointments are divided among the Governor, the Senate President, and the House Speaker and are to be made on a rotating basis. 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.

**HB 1342** (passed) established a Juvenile Justice Monitoring unit in the Office of the Attorney General to replace the former Office of the Independent Juvenile Justice Monitor, currently under the Office for Children Youth and Families (OCYF), which is due to sunset on July 1, 2005. Under the legislation, the unit is to investigate and determine whether the needs of children under the jurisdiction of the Department of Juvenile Services are being met in compliance with State law, that their rights are being upheld, and they are not being abused. Another measure of the former Independent Monitor did not pass (**HB 1343**) (failed).

Both proposals that addressed the fate of the OCYF did not pass (**SB 222** and **HB 293**) (both failed). Actions in the Budget Bill (**HB 150**) provided for the elimination of the office and some of its positions. Another set of measures (**SB 759/HB 932**) (both passed) transferred some OCYF personnel and functions to the State Department of Education (MSDE). These bills establish a new Early Childhood Development Division in MSDE to incorporate early learning and child care programs from the Department of Human Resources (DHR) as well as the transferred segments from OCYF, i.e. the Home Visiting Consortium, Healthy Families Maryland, and the School-Based Health Care Initiative. The bills also require MSDE to develop a plan to address the needs of children with disabilities, children with special health care needs, and child care providers that care for these children. The plan must be incorporated into the State Disabilities Plan.

**HB 1476** (passed) deals with legislative continuances and time extensions. The bill specifies that if a member or desk officer of the General Assembly is an attorney of record in a proceeding, the proceeding must be continued until at least 10 days after the legislative session is adjourned. Additionally, if any document, instead of just a brief or memorandum of law, is required to be filed in a continued proceeding, the proceeding must be continued for additional time to allow the document to be prepared. Any time prescribed by the Maryland Rules, by rule or order of court, or by any statute applicable to the filing of any document, begins to run 10 days after the General Assembly adjourns.

## TRANSPORTATION

### *Minor Passengers of Young Drivers*

Approval of **SB 57/HB 393** (both 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. The prohibition is for five months 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 of the driver, as specified in the legislation. A violation, for which the licensee may be fined up to \$500 and assessed one point on conviction, is to be treated as a secondary action when a police officer detains a licensee for another violation. If there is evidence of a violation, the Motor Vehicle Administration (MVA) may suspend or revoke the license.

### *Practice Driving*

Pending gubernatorial agreement, additional practice driving requirements for a holder of a learner's permit are to be completed before application for a provisional license. **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.

### *Wireless Communication Devices*

A conference committee resolved the differences in the House and Senate versions of **SB 50** (passed) and **HB 394** (passed). The bills provide that, except for calls to 9-1-1, an individual under the age of 18 years who holds a learner's permit or a provisional driver's license is prohibited from using a wireless communication device while operating a motor vehicle. Violation is a secondary action, but if there is evidence of a violation, the MVA may suspend the individual's driver's license for not more than 90 days, but may issue for the period of suspension a restricted license that is limited to driving for employment or for school.

### *Licensing Timelines*

Successful legislation extends certain timelines for obtaining licenses:

- **SB 209** (passed) provides that a learner's permit holder may only apply for a provisional driver's license six months after first receiving the learner's 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; 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.

#### *Alcohol/Drug Abuse*

**SB 650/HB 103** (both passed) gained final approval. The legislation institutes additional consequences for drivers who knowingly refuse to take a blood or breath alcohol test when detained on suspicion of an alcohol-and/or drug-related driving offense and are later convicted of an alcohol or drug-related driving offense. The additional penalties, on top of any other penalties imposed, are a maximum fine of \$500, imprisonment for up to two months, or both.

**HB 1392** (passed) 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 General Assembly did not agree to legislation that would have tightened laws related to young drivers who drive drunk or drugged. **SB 207/HB 252** (both failed), as originally drafted, would have imposed mandatory suspension or revocation of the driving license or privilege of a driver under the age of 21 who violates alcohol- and/or drug related provisions. Differences between the chambers could not be worked out.

#### *Driver Responsibility and First Responders Fund Act*

After lengthy debates and amended language, neither bill passed (**SB 275/HB 383**) (both failed) that would have established a First Responders Fund to provide grants to political subdivisions to pay for equipment and personnel for fire, rescue, and emergency medical services entities and local law enforcement agencies. Support for the funds would have come from fees assessed on driver licensees who accumulate violations of vehicle and drunk or drugged driving laws.

#### *Individuals with Disabilities*

**SB 630** (passed) alters the eligibility requirements for special disability registration plates and parking placards and addresses other issues pertaining to disability registration and parking. Additionally, as of October 1, 2010, all signs designating a parking space or zone for individuals with disabilities must state the maximum fine for illegal parking, and, as of October 1, 2010, each parking lot in the State must be compliant with the applicable codes.

#### *Commercial Drivers*

The legislature approved bills (**SB 640/HB 789**) (both 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.

#### *Low-Speed Vehicles and Hybrid Vehicles*

Low-speed vehicles, such as those used on golf courses, are four-wheeled electric vehicles with a maximum speed capability of between 20 and 25 miles per hour. Under **HB 316** (passed), these vehicles will be subject to State titling and registration requirements. Additionally, the vehicles may not be used on a highway with a speed limit exceeding 30 miles per hour or across a highway with a speed limit greater than 45 miles per hour. Local jurisdictions may prohibit their use on any highway in their jurisdictions. The exemption for hybrid vehicles with city fuel economies of at least 50 miles per gallon from mandatory emissions tests and inspections was due to expire on September 30, 2006. **HB 367** (passed) extends the exemption until September 30, 2009.

#### *BWI Airport*

Amended and approved legislation renames the Baltimore-Washington International Airport (BWI) as the Baltimore-Washington International Thurgood Marshall Airport in honor of the late Supreme Court Justice who was a native Marylander and who, among his many life achievements, was the chief litigator in the landmark *Brown v. Board of Education* decision in 1954, and the first African American appointed to the Supreme Court (**HB 189**) (passed). Funding for the name change is to be provided in the State budget, and the renaming is contingent on ratification by the Board of Public Works. The measure also sets up an Advisory Committee on the Naming of State Facilities, Roads, and Bridges to evaluate future requests. Facilities at public higher

education institutions do not come under the purview of the committee.

*Port of Baltimore*

Measures that would have established the Maryland Port Administration (MPA) as an independent unit of State government were defeated ([SB 1004](#) and [HB 1587](#)) (both failed). Also defeated, [HB 1537](#) (failed) would have created a committee to study the feasibility of creating an independent port authority to operate the Port of Baltimore.

*InterCounty Connector (ICC)*

The General Assembly approved [SB 255](#) and [HB 1352](#) (both passed) that alter the Maryland Transportation Authority (MdTA) bonding authority and make provisions for funding the InterCounty Connector (ICC). The bills repeal bonding restrictions enacted last session that would have required legislation approving the issuance of any bonds to finance a transportation project and the maximum principal amount of bonds to be issued. Instead, the bills permit MdTA to issue revenue bonds secured by toll revenues in any amount, as long as the outstanding principal on all bond issues does not exceed a cap of \$1.9 billion on June 30 of any year or a more restrictive cap imposed by the General Assembly for the next fiscal year.

The bills also expand the definition of tax-secured debt to include debt issued by the Maryland Department of Transportation (MDOT) or MdTA that is secured by a pledge of future federal aid from any source and limit this type of debt to \$750 million in principal for 12 years.

As passed, the bills provide that the State and MdTA shall finance the ICC by the:

- transfer of \$22 million in fiscal 2005 and \$38 million in fiscal 2006 from the Transportation Trust Fund (TTF) to MdTA;
- transfer from TTF to MdTA at least \$30 million from the for fiscal 2007 through 2010;
- transfer from the general fund an aggregate appropriation that equals \$264.9 million by fiscal 2010;
- transfer of at least \$10 million in federal aid as deemed prudent;
- issuance by MdTA of bonds secured by a pledge of future federal aid not to exceed \$750 million; and

- issuance by MdTA of revenue bonds not secured by future federal aid.

Additional provisions impose reporting requirements and declare the General Assembly's support for a continuous bike and pedestrian path as part of the ICC.