



# The Legislative Wrap-Up

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## FIRST CITIZEN AWARDS

Recently the Senate of Maryland honored three former legislators with 2006 First Citizen Awards: J. Frank Raley, Jr., served from 1955 to 1966; C. Bernard Fowler, served from 1983 to 1994; and Martin G. Madden, served from 1991 to 2002. The three public servants were honored for their “love of the environment” and for furthering “the cause of preserving and restoring the Chesapeake Bay watershed.”

The awards are given annually to Marylanders who have been dedicated and effective participants in the process of making government work for the benefit of all. *First Citizen* was the name that Charles Carroll of Carrollton signed to a series of articles that formed a strong defense of an independent legislature and were among the earliest arguments for a concept of government based upon traditional community rights and liberties which protected its citizens from arbitrary rule.

## COURTS AND CIVIL PROCEEDINGS

A resolution known as an address was introduced earlier this week in the House of Delegates that charges Baltimore City Circuit Court Judge M. Brooke Murdock with misbehavior in office, willful neglect of duty, and incompetence. The address is in response to Judge Murdock’s January ruling, now stayed pending appeal, that Maryland’s 1973 law prohibiting same-sex marriage is unconstitutional. A House committee voted to reject the proposal late this week.

An employer must pay an employee who is called to serve jury duty an amount equal to the employee’s usual pay, minus any per diem received from the State or the local jurisdiction, for each day of service under the provisions of [SB 733/HB 1343](#). In addition, an employer is prohibited from disciplining, discriminating against, or otherwise penalizing an employee because of job time lost due to jury duty or from requiring an employee to use leave for that time. Finally, a judge is required, not just allowed, to excuse a person from jury duty if the person shows specified good cause.

The Senate passed a measure to create a Task Force to Study Gambling Treatment Programs in Circuit Courts and the District Court ([SB 150](#)). Gambling treatment

programs use specialized dockets to divert those who commit nonviolent crimes to support their habits into an integrated system that emphasizes treatment, supervision, and accountability. The task force must submit its report by December 1, 2007. The companion bill, [HB 302](#), has failed in committee.

Gaining House approval, [HB 813](#) requires the Governor’s Office for Children to develop a State resource plan for residential child care programs and includes strict and enhanced requirements for residential child care program operators that must be set out in a procurement contract for such services. The companion bill, [SB 822](#), was before a Senate committee last week.

## CRIMES, CORRECTIONS, AND PUBLIC SAFETY

Debate over the accuracy of crime statistics in Maryland has led to the recent introduction of legislation. [SB 1030/HB 1706](#) require local law enforcement agencies and the State Fire Marshal to provide crime statistics to the Department of State Police, prohibits them from intentionally providing inaccurate information, and shields police officers from reprisals if they refuse to report false crime statistics. [SB 1026/HB 1707](#) require the Governor’s Office of Crime Control and Prevention to conduct a statewide audit of crime statistics at least once every three years.

The House approved [HB 434](#) that creates the misdemeanor of committing a crime of violence while knowingly in the presence of a child under the age of 16 who witnesses the crime. The spouse of a person accused of the misdemeanor is compelled to testify against the defendant about certain aspects of the crime.

[SB 159](#) passed a preliminary Senate floor vote to allow the admission of evidence of a defendant’s prior conviction of sexual misconduct involving a minor in a trial of a defendant accused of sexual misconduct involving a minor if certain conditions are met. [HB 541](#), the companion bill, is scheduled for a committee hearing on March 10.

Citizens testified this week on [HB 895](#) that establishes the Crime Stoppers Trust Fund to provide funding - through a \$20 increase in circuit court and District Court costs imposed on convicted defendants - for “crime

stopper programs” that pay for tips that lead to the capture of a criminal and regulates the distribution of the funds. The companion measure, [SB 878](#), is on a committee’s agenda next week.

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## ECONOMIC AND BUSINESS ISSUES

Lawmakers have listened to commentary on a proposal to establish application and licensing procedures, including criminal background checks and photo identification for locksmiths. [HB 667](#) defines locksmiths as persons engaged in the business of rekeying, installing, repairing, opening, and modifying locks. The definition does not include a person who makes a duplicate key from an existing one.

In the Small Business Reserve Program, each State agency that is subject to the State procurement law must structure its procurement processes so that 10% of the total value of contracts go to small businesses. Several bills, scheduled for committee scrutiny in coming weeks, alter the program:

- [HB 688](#) establishes a \$500,000 threshold for a procurement contract to be subject to the State’s 10% small business set-aside program; and
- [HB 1538](#) alters the definition of small business by increasing the maximum average gross sales requirements and extends the program until 2009.

Other measures related to small businesses and also to minority businesses (MBEs) are in the pipeline:

- [HB 1317](#) requires employers with 500 or more employees to disclose in writing the number and value of contracts they have with small businesses or MBEs before they can claim to have a business relationship with them in their marketing or advertising publications; and
- [HB 1087](#) establishes the Office of Small, Local, and Minority Business Enterprise in the Washington Suburban Sanitary Commission (WSSC) to administer all the minority and local small business enterprise programs, and [HB 1256](#) conforms the WSSC’s definition of small business to the State definition.

In response to an administrative decision by the Comptroller’s Office requiring all Maryland wineries to distribute their spirits through wholesalers, several measures with differing aims were heard by committees this week:

- [SB 812/HB 1122](#) create a Class 6 limited wine wholesaler’s license that allows, for an annual \$50 license fee, the licensee to sell and deliver its own brand of wine produced at the holder’s premises to any person in the State, if the holder is authorized to do so;
- [SB 877/HB 1291](#) essentially codify the Comptroller’s decision by prohibiting wineries from selling their product directly to retailers, and
- [HB 625](#) repeals the ability of the Comptroller’s Office to issue a direct wine seller’s permit and authorizes issuance of a Direct Wine Shipper’s License.

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## EDUCATION

Committee members in the Senate and House have gathered testimony on [SB 668/HB 531](#) requiring the State Board of Education to adopt regulations that prohibit a local board of education from contracting for school building repairs, maintenance, and improvements with a person who has been convicted of or who employs an individual who has been convicted of a violent crime or a child sexual offense if the repairs, maintenance, and improvements will take place during school hours.

Also heard recently by a committee, [HB 43](#) exempts undocumented immigrants who attended and graduated from Maryland high schools from paying nonresident tuition at Maryland’s public institutions of higher education.

Two bills that address the rising cost of tuition at Maryland public institutions of higher education were on the hearing schedule for both the Senate and the House this week. [SB 959](#) and [HB 1381](#) prohibit University System of Maryland institutions and Morgan State University from increasing resident undergraduate tuition for the 2006-2007 academic year beyond the amount charged in the 2005-2006 academic year. The prohibition is contingent on legislation that provides supplementary appropriations of \$18.8 million to the University System of Maryland and \$823,257 to Morgan State University.

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## ELECTIONS & ETHICS

To address the controversy surrounding the accuracy of electronic voting machines without paper trails, the House amended and passed [HB 244](#) that requires the State Board of Elections for the 2006 primary and

general elections only to lease an optical scan voting system that will produce a voter-verified paper record of each voter's vote. The amended bill specifically directs that the current Diebold electronic touch screen system may not be used. Original language remaining in the bill, now with an effective date of March 1, 2008, requires implementation of a system that will produce voter-verified paper records, adoption of specified procedures for verification of voting results, and states that the voter-verified paper record is to be the official true and correct result of the votes cast. Access for individuals with disabilities is addressed in both the 2006 and following elections, but there is disagreement in that community as to the effectiveness of paper votes. The companion measure is [SB 713](#).

Companion bills, [SB 942/HB 1580](#), seek to delay, from February 2006 to January 2008, the early voting provisions that allow a five-day early voting period before primary and general elections. The early voting period resulted from the General Assembly's override of the Governor's veto of 2005 legislation ([SB 478](#), Chapter 5, Acts of 2006)

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## ENVIRONMENT, NATURAL RESOURCES, AND AGRICULTURE

[SB 416](#), which changes the notification and cost reimbursement requirements associated with discovery of methyl tertiary butyl ether (MTBE) contamination in groundwater established by last year's legislation, has received a favorable preliminary floor vote. As amended, the bill requires a local health department to provide the Department of Environment with the names and addresses of the property owners to be notified, and allows the notification to be limited to the property owners that are hydrogeologically downgradient of the sampled well. Other MTBE related bills, [HB 1326](#), [HB 711](#), [HB 522](#), and [HB 360](#), remain in committee.

Also still in committee are two bills ([SB 346/HB 1238](#)) that let newspaper publishers calculate the requirement that newsprint include 40% by weight recycled material over a three-year period, instead of annually.

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## FINANCIAL INSTITUTIONS AND COMMERCIAL LAW

The Senate passed an amended [SB 134](#), the Personal Information Protection Act. This bill imposes duties on a business with annual gross income of more than \$1 million to protect an individual's "personal information." Amendments revise the notification

provision of a security breach of computerized data involving personal information. Violation of the bill is an unfair or deceptive trade practice under the Maryland Consumer Protection Act.

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## FISCAL MATTERS

The Budget Bill, [SB 110](#), is scheduled to be brought to the Senate floor early next week with the Senate committee's recommended amendments to the bill. The Senate and House will hold hearings on local bond bills on Saturday, March 11.

Other measures of interest include:

- [HB 836](#), exempting from the sales tax water sold in containers of one gallon or larger, which had a committee hearing on March 1;
- [HB 1424](#), the "Hometown Heroes Act of 2006," extending the current pension income tax exclusion to the pensions of retired federal, State, or local law enforcement officers, firefighters, and emergency services personnel who are at least 50 years old, which had a hearing on February 28; and
- [HB 717](#), including a special needs trust for a person with a disability in the definition of a homeowner for the "Homeowner Property Tax Credit Program," the "circuit breaker," which had a hearing March 1. The bill also includes these trusts in the definition of families with limited income for those eligible for financial assistance from the Department of Housing and Community Development. The special needs trust for a person with a disability must meet federal criteria.

Supporters seek to provide greater flexibility for policymakers during times of fiscal stress by increasing the minimum Revenue Stabilization Account balance from 5% of estimated General Fund revenues to 7.5% pursuant to a Spending Affordability Committee recommendation. The 5% balance is to be accessible only by an Act of the General Assembly, while the Governor may appropriate the amount over the 5% minimum. [SB 542](#) is in a Senate committee, while the companion bill, [HB 1331](#), has cleared the House.

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## GAMING, RACING, AND SPORTS

Passing the House, [HB 282](#) increases the duration of a complimentary hunter's license for a Maryland resident who is a former prisoner of war or 100% service

connected disabled American veteran. The duration is increased from one year to the lifetime of the licensee.

**SB 521**, passing a preliminary floor vote this week, prohibits a person from shooting at or killing a bird or animal in the State with a gun or device operated or accessed via an internet connection. A person convicted of this is subject to a fine of up to \$10,000 or imprisonment for up to one year or both. In addition, the person's hunting license or privileges will be revoked for at least two but not more than five years.

Another bill that prohibits computer-assisted hunting, **HB 968**, was aired before a committee recently. The bill requires that the Department of Natural Resources seize any bird or animal hunted in such a manner. The hunting license of any person convicted of the violation will be revoked, and a license may not be issued for at least three, but not more than five years.

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## **HEALTH CARE AND HEALTH INSURANCE**

Debated extensively on the floor with further amendments adopted by the chamber, the Senate passed its version of the Maryland Stem Cell Research Act of 2006 (**SB 144**). The Maryland Technology Development Corporation (TEDCO) will administer the fund established under the bill, although no specific appropriation is stated. Funding availability is expanded to include adult stem research, but the bill no longer includes a funding priority to specific research proposals. Amendments revise the membership of the Stem Cell Research Commission. Human cloning is banned under the bill. The Senate proposal differs from **HB 1**, as approved by the House last week.

Also approved in the Senate, an amended Administration proposal (**SB 236**) creates the Advance Directive Registry within the Department of Health and Mental Hygiene (DHMH) and requires the Maryland Department of Transportation (MDOT) to add an advance directive notation on driver's licenses and identification cards.

Scheduled committee hearings this week included formation of a Commission for Men (**SB 824**), establishment by each hospital or nursing facility of a infections prevention and control program and reporting system by DHMH (**SB 535/HB 966**), and a requirement that DHMH, in coordination with the Secretary of Budget and Management, develop a Canadian Mail Order Plan for the purchase and importation of prescription drugs (**SB 568**).

## **STATE GOVERNMENT**

For the next four-year term, there will be no changes in the compensation plan for the Governor, Lieutenant Governor, or the General Assembly from what is currently in place. The General Assembly rejected the changes in **SJ 2**, as originally proposed by the Governor's Salary Commission. The amended resolution, passed by both chambers, freezes the salaries of the Governor and Lieutenant Governor at the current levels (\$150,000 and \$125,000, respectively). As well, legislators will continue to receive \$43,500 annually with no increases in their package. The House companion resolution, **HJ 1**, passed the House this week with the same amendments.

Through **SB 181/HB 163**, the Governor's Salary Commission had also recommended annual salary increases over the next four years for the Comptroller, Treasurer, Attorney General, and the Secretary of State, but both bills received unfavorable votes in their respective committees. Therefore, the compensation plan for these officials will also remain unchanged from what is currently in place.

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## **TRANSPORTATION**

Heard recently in committee, **SB 705/HB 1370** create an Off-Highway Vehicle Fund (OHV Fund) in the Department of Natural Resources to support building and maintaining trails for off-highway vehicles (OHV), create a 14-member Off-Highway Vehicle Trails Advisory Committee, and provide for the registration and titling of OHVs.

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## **NEXT WEEK**

Examination of a number of major issues is still actively being pursued. Nearly 20 bills address electricity deregulation and restructuring, as well as the proposed merger of the Florida based FPL Group with the Constellation Energy Group (BGE). Another prominent topic, eminent domain, has gathered over 30 proposals. Committee hearings and voting sessions will continue.