



The Legislative Wrap-Up

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BILL DEADLINES

The 70th day of the session (March 20) is the Committee Reporting Courtesy Date by which each chamber's committees are to report their own bills. The next deadline, the 76th day (March 26), is the Opposite Chamber Bill Crossover Date. By this date each chamber is to send to the other chamber those bills it intends to pass favorably. Opposite chamber bills received after this date are subject to referral to the Rules Committees. The 2007 session ends at midnight on April 9.

PUBLIC SERVICE COMMISSION

In 1910, the Maryland General Assembly established the Public Service Commission (PSC) as an independent State agency to regulate public utilities and transportation companies in Maryland. The Commission regulates gas, electric, telephone, for-profit water and sewage companies, and certain transportation companies including taxicabs in Baltimore City, Baltimore County, Cumberland, and Hagerstown.

The Commission consists of five members appointed by the Governor with the advice and consent of the Maryland Senate. Lawrence Brenner is the latest gubernatorial appointment to the PSC. Judge Brenner has been an administrative judge at the Federal Energy Regulatory Commission where he worked to regulate and oversee the economic, environmental, and safety aspects of the energy industry nationwide. Previously, Brenner was both an attorney and supervisor at the U.S. Nuclear Regulatory Commission and its predecessor, the U.S. Atomic Energy Commission. He also served as an administrative law judge with the U.S. Department of Labor.

Last month, Governor O'Malley nominated former Maryland Insurance Commissioner Steven B. Larsen to serve as Chairman of the PSC. He also nominated former PSC member Susanne Brogan to return to the Commission and announced the reappointment of Commissioner Harold D. Williams, who has served since October 2002. Allen M. Freifeld, an appointment by former Governor Ehrlich, retains his membership.

COURTS AND CIVIL PROCEEDINGS

Bills that have recently passed one chamber and are now in the other chamber include:

- [HB 536](#) that provides that a proceeding to establish paternity of a child who is dependent on a parent because of a mental or physical infirmity may begin at any time before the child's twenty-first birthday; and
- [HB 792](#) that authorizes the Child Support Enforcement Administration to refer to the Attorney Grievance Commission an attorney whose child support payments are more than 120 days in arrears. On recommendation of the Attorney Grievance Commission, the Court of Appeals may suspend an attorney's license or take other action against the attorney as authorized by the Maryland rules governing attorney discipline.

Failing a final Senate floor vote, [SB 533](#) would have prohibited a court from granting a divorce or annulment until an affidavit is filed by one party to the action, on request of the other party, declaring that all possible steps have been taken by the first party to remove all secular, religious, or conscientious barriers to the other party's remarriage.

Marriage was the topic of testimony in a House committee this week. Maryland's Marriage Protection Act ([HB 919](#)) amends the Maryland Constitution to establish that only a marriage between a man and a woman is valid in the State and that all rights are to be conferred equitably and not based on sexual orientation. The proposed amendment states also that under no circumstances does the Constitution permit same sex relationships to be taught in K-12 public schools. Another measure, [HB 774](#), defines marriage as a lifetime commitment between a man and a woman and establishes that an insurance provider or employer that provides a benefit plan to a married couple is not required to provide that plan to a nonmarried couple. Further, a benefit provider may establish a rate for a benefit plan for a married couple that differs from the rate for a benefit plan for a nonmarried couple.

CRIMES, CORRECTIONS, AND PUBLIC SAFETY

This week legislation passed by the chamber of origin and waiting for hearings in the opposite chamber seeks to:

- raise the minimum age requirement for correctional officers from 18 to 21, with an exemption for honorably discharged veterans ([HB 910](#));
- create the felony crime of human trafficking for the purpose of prostitution, sexually explicit performance, or involuntary servitude, or knowingly benefiting financially from participation in such ventures ([SB 606](#)). Solicitation of a minor for the purpose of prostitution or a sexually explicit performance, or benefiting financially from participating in the venture, is also a felony under the bill (an identical bill, [HB 876](#), awaits House committee action);
- increase the maximum penalty for possession of child pornography to two years in jail and a \$2,500 fine for first offenders, and five years and a \$10,000 fine for subsequent offenders ([HB 285](#)). The material must depict an actual child under 16. Bills to make possession of child pornography a felony rather than a misdemeanor ([SB 329/HB 685](#) and [SB 1003](#)) remain in committee; and
- strengthen State oversight of residential child care programs by requiring that direct care staff members of a licensed public or private facility be at least 21 years old and complete a State-approved training program and that a system for outcomes evaluation be implemented that measures the effectiveness of residential child care programs ([HB 53](#)). Companion [SB 177](#) remains in a Senate committee.

Legislation to tighten the State's sex offender laws ([SB 413/HB 930](#)), referred to as Jessica's Law, had hearings this week. The bills deny parole eligibility to an adult offender during the mandatory minimum portion of a sentence being served for first or second degree rape or first, second, or third degree sexual offense, where the victim was a child under the age of 13. Also, a 2-year mandatory minimum, nonsuspendable sentence is created for an adult convicted of a third degree sexual offense against a victim under 13.

Under current law, juveniles are not required to register with the State's sex offender registry for delinquent acts that, if committed by an adult, would require registration. [SB 738/HB 1099](#) require a juvenile to register at the age of 18 for inclusion on the sex offender

registry if the juvenile was at least 13 at the time the qualifying delinquent act was committed and is determined by the court (at the time a juvenile court jurisdiction is terminated) to be at risk of committing another sexually violent offense or child sexual offense. Both bills have had hearings and await committee action.

Committee approval was denied this week to the Senate bill that would have repealed Maryland's death penalty ([SB 211](#)). The vote was tied and therefore the bill failed. Other bills that failed in committee would have exempted Maryland's death penalty protocols from the requirements of the Administrative Procedure Act ([HB 690](#)) and would have established a Criminal Gang Task Force and database ([HB 896](#)).

Additionally, a Senate committee voted unfavorably on the Assault Weapons Ban legislation ([SB 43](#)) that generally would have prohibited assault weapons in the State.

ECONOMIC AND BUSINESS ISSUES

Heard in committee on Tuesday, [SB 703](#) enables family child care providers to designate a provider organization to be the joint negotiating representative of all Purchase of Care (POC) providers and the joint rulemaking representative of all registered providers in Maryland. A similar bill was introduced in the 2006 session.

After passing the Senate, [HB 60](#) has moved to the Governor's office for consideration. The bill authorizes specified electric cooperatives to supply their standard offer service load through a portfolio of blended wholesale supply contracts. Its companion bill, [SB 66](#), has a hearing in the House on March 20. Decisions have also been made this week on two other electric utility bills:

- [HB 631](#), as passed by the House this week, requires each electric company to provide cost-effective energy efficiency and conservation measures and services for its residential customers in the procurement of electricity for standard-offer service; and
- [HB 126](#) (failed) would have required the Public Service Commission (PSC) to establish regulations ensuring that electric companies offer residential customers advanced electric meters.

Additional failed bills this week are:

- [HB 743](#), which would have authorized an employer to use an “evidential breath measurement device” in testing employees for alcohol use; and
- [HB 1069](#), which would have required proof of network neutrality from broadband Internet service providers in the State.

EDUCATION

Passing third reading:

- [SB 29](#) authorizes judicial review in the circuit court of a decision by the Maryland Higher Education Commission regarding the duplication of academic programs; and
- [HB 204](#) establishes a Task Force to Study the Cost of Textbooks for Higher Education.

Passing second reading in the Senate, [SB 604](#) raises the maximum annual amount of a Senatorial Scholarship from \$2,000 to the equivalent annual tuition and mandatory fees of an undergraduate program at a four-year college within the University System of Maryland with the highest annual expenses for a full-time resident student. The bill also repeals the \$8,000 limit on the amount a student may receive over multiple years.

Heard recently, [HB 619](#) requires a county superintendent of schools to notify the county board of education in writing of any criminal charges brought against the superintendent. Upon notification the county board may suspend a superintendent with pay until the final disposition of those charges.

Failing is [HB 317](#), the Student Health and Fitness Act, which would have established minimum hours per week that must be reserved for physical education in public schools. Companion [SB 244](#) is still in committee.

ENVIRONMENT, NATURAL RESOURCES, AND AGRICULTURE

A number of bills in the spotlight this session have passed to the opposite chamber:

- [SB 532/HB 760](#) prohibit catching or possessing diamondback terrapins ([HB 760](#) has an amended effective date of July 1, 2007).
- [SB 766](#) prohibits the sale or use of dishwashing machine detergent that contains greater than 0.5 percent of phosphorus. As amended, it applies only to detergents used for household dishwashing

machines and the deadline for compliance has been extended until July 1, 2009. Testimony was heard this week on the crossfiled proposal, [HB 1131](#).

- [SB 352](#), as amended, requires the Department of the Environment to report by July 2007 on the need for mandating a detailed environmental evaluation before land that had been used for a golf course could be developed. The companion, [HB 417](#), remains in committee.
- [SB 333](#) creates the Commission on Maryland’s Energy Future to assess the State’s continuing and projected energy needs and recommend long-term energy efficiency and alternative energy strategies by September 1, 2008.

Other bills that encourage the use of alternative energy sources include:

- [SB 261](#), as passed by the Senate, creates the Task Force on Renewable Alternative Fuels to study the potential future use and impact of biodiesel and renewable fuels in Maryland, and report by December 31, 2007. The crossfiled bill, [HB 660](#), remains in committee;
- [SB 566/HB 1072](#), both in committee, allow a wind powered energy generating facility to be built without the usually required certificate of public convenience and necessity as long as any excess electricity generated is sold only on the wholesale market pursuant to an interconnection, operation, and maintenance agreement with the local electric company; and
- [HB 1262](#), heard by a committee this week, expands the scope of existing renewable fuel production credits to apply to producers that generate energy from specified renewable sources for providing heat for manufacturing processes and homes, but not for the production of electricity. Testimony will be heard on the crossfiled bill, [SB 829](#), on March 20.

Bills that are moving forward with favorable preliminary floor votes in the House include:

- [HB 133](#), as amended, creates the Oyster Advisory Commission within the Department of Natural Resources (DNR), requires DNR to provide maps of areas where oyster harvesting is prohibited, establishes penalties, and clarifies how a nonstock corporation may lease submerged land in Anne Arundel County for oyster restoration. The crossfiled [SB 148](#) remains in committee;

- [HB 412](#), as amended, extends some restrictions on using oyster dredging devices until September 30, 2009;
- [HB 1045](#), as amended, redefines the definition of biodiesel for the purpose of receiving production credits; and
- [HB 488](#), as amended, expands the Statewide Computer Recycling Program to include video display devices larger than four inches, provides for the issuance of three warnings before a fine is assessed, and changes the fine structure.

Unfavorable committee reports have been received by:

- [HB 253](#), which would have increased the grant amount that may be given under the Solar Energy Grant Program and eliminated the Geothermal Heat Pump Grant Program. Companion [SB 187](#) remains in committee;
- [HB 737](#), which would have required the future carbon dioxide emission allowances awarded to the State under the Regional Greenhouse Gas Initiative to be sold at public auction;
- [SB 49](#), which would have restored local Program Open Space provisions that expired September 30, 2006. Crossfiled [HB 69](#) remains in a Senate committee; and
- [SB 499](#), which would have expanded the types of land that could be included in the calculation of a municipal corporation's groundwater recharge area in conjunction with an application for a water appropriation permit thereby increasing development opportunities.

FINANCIAL INSTITUTIONS AND COMMERCIAL LAW

Reported out of committee, revised legislation ([SB 194](#)) imposes duties on a "business" with an annual gross income of \$1 million or more to protect an individual's "personal information" and to provide notice of a security breach relating to an individual's personal information. [SB 514](#), also dealing with security breaches of consumer information, received an unfavorable committee vote.

Additionally, a committee did not approve the bill that would have required a merchant with 50 or more employees that collects and maintains "personal information" about a Maryland consumer to implement

and maintain reasonable security procedures and practices to protect the information from unauthorized access, use, modification, or disclosure ([SB 467](#)).

FISCAL MATTERS

The Budget Bill, [HB 50](#), passed the House with 250 amendments reducing the appropriations in the bill, as well as in the two supplemental budgets, by \$192.3 million. A House floor amendment failed that would have reduced the Budget Bill by \$683.2 million, including a reduction in educational aid by \$567.2 million.

House amendments include cutting the:

- Rural Legacy Program by \$5 million;
- Heritage Structure Rehabilitation Tax Credit by \$15 million, although language is added permitting a \$10 million deficiency appropriation for fiscal 2008;
- mental health community services for Medical Assistance recipients by \$12 million, equally divided between general and federal funds;
- Medical Assistance by \$39.4 million in general funds;
- Department of Education's excess assessment test funds by \$14.5 million;
- non-public school textbook assistance by \$200,000 to \$3.7 million; and
- higher education, including State aid to non-state institutions, by \$11.8 million.

Further actions delete the Economic Development Opportunities Program funds (\$2 million), institute a hiring freeze for State employees for a savings of \$7 million, and require child welfare caseworker positions to be filled before \$1 million may be released.

This week the two sales tax on services bills ([HB 448](#) and [HB 1022](#)) had hearings, as did the two bills increasing the motor fuel tax ([SB 949](#) and [HB 821](#)). Testimony was also given on [HB 517](#), establishing a tax credit for oyster restoration.

Unfavorable votes were recorded for [SB 67](#) that would have provided a tax credit for businesses that ban smoking and for [SB 182](#) that would have increased the amount excluded from the State's estate tax. A similar bill, [HB 73](#), is still in committee.

GAMING, RACING, AND SPORTS

Passing the Senate, [SB 271](#) allows a child of a resident owner, tenant, or specified nonresident owner of farmland to qualify for a license and stamp exemption when hunting on the farmland if the child lives on, works on, or manages the land even if the child is ineligible to purchase a junior resident or junior nonresident hunting license. Thus, certain adult children could qualify for the exemption.

HEALTH CARE AND HEALTH INSURANCE

A much discussed health care measure passed in the House this week. Partially funded by doubling the tobacco tax, an amended Children and Working Families Health Care Act of 2007 ([HB 754](#)) provides expanded health insurance coverage under Medicaid and Children's Health Programs. Dependent children up to age 25 can continue coverage under parental health insurance policies. Added to the legislation is \$50 million distributed over five years to Prince George's Hospital System. No longer in the bill are subsidies to small businesses offering health insurance coverage or an income tax surcharge on high-income individuals who do not have insurance.

As originally introduced, [HB 572](#) also included a surcharge on high-income taxpayers without health insurance. The bill, as passed by the House, now requires a study of the issue of personal responsibility for obtaining health care coverage. The House has joined the Senate in passing its companion version of the Oral Health Safety Net Program ([SB 181/HB 30](#)).

Bills no longer being considered due to unfavorable committee action or sponsor action include expanding disabled individuals' eligibility to the Maryland Health Plan ([SB 489](#)), use of trans fat by food service facilities ([SB 504](#)), and withdrawn [HB 972](#) requiring electronic monitoring in nursing facilities.

Hearings this week addressed:

- prioritizing State funding for embryonic stem cell research under the Stem Cell Research Enhancement Act of 2007 ([SB 59](#));
- altering the definition of and expanding the prohibition against human cloning and establishing civil penalties for violators under the Human Cloning Prohibition Act of 2007 ([SB 362](#));
- setting requirements and restrictions on oocyte donations ([SB 578/HB 873](#));

- conforming State law references to "service animals" rather than "service dogs" used by individuals with disabilities, increasing fines for interference with or denial of services to persons with disabilities, and creating a State program on rights of individuals with service animals under the Maryland Service Animal Reform Act - "Gretchen's Law" ([HB 505](#));
- expanding State smoking ban to restaurants and bars under the Clean Indoor Air Act of 2007 ([SB 91](#));
- moving the Maryland Institute for Emergency Medical Services System to the Department of Health and Mental Hygiene (DHMH) ([HB 1048](#));
- establishing a registry within DHMH to allow patients suffering from a debilitating medical condition to use marijuana for medical purposes under the Maryland Compassionate Use Act ([SB 757](#));
- establishing a Task Force on the HPV Vaccine ([HB 1049](#)) to recommend a plan to implement a State HPV program;
- creating a statewide public awareness campaign on Lyme disease ([HB 836](#)); and
- exempting the sale of milk and milk products by milk producers (an operator of a dairy farm) directly to the final consumer from regulations governing the production, processing, labeling, and distribution of milk products in the State ([HB 1010](#)).

REAL PROPERTY, ESTATES, AND TRUSTS

This week in the House, eight bills on ground rents were reported out of a committee and then passed second reading with amendments on the Senate floor ([HB 452](#), [HB 458](#), [HB 463](#), [HB 489](#), [HB 502](#), [HB 580](#), [HB 1125](#), and [HB 1284](#)). Of these, [HB 452](#) is an Administration bill that authorizes the conversion of an irredeemable ground rent to a redeemable ground rent.

Another of the measures, [HB 1125](#) requires a contract for the sale of real property subject to a redeemable ground rent to contain a provision notifying the buyer of the statutory right to redeem the ground rent and of the statutory redemption amounts. Altering the purpose of the Maryland Home Financing Program, [HB 1284](#) makes preferred interest rate loans to households that meet income standards for the redemption of ground leases on their principal residences.

A number of eminent domain bills have had public hearings. [SB 294](#), recently before a committee, proposes to amend the Maryland Constitution to exclude certain activities from the definition of the term “public use” in the context of the State’s or a local government’s exercise of the power of eminent domain. Activities that are deleted as a public use are urban renewal, community revitalization or redevelopment, attracting new business or encouraging the expansion or retention of existing business, job creation, or generating tax revenue. The bill thereby eliminates the State’s or a local government’s ability to condemn private property for these purposes.

The bill also expressly prohibits private property from being acquired by condemnation to carry out an urban renewal project and repeals the authority of a county or municipal authority to condemn private property for that purpose. Finally, the bill amends provisions authorizing Baltimore City to acquire property for development or redevelopment, off-street parking, and port development by prohibiting private property from being acquired by condemnation for an economic development purpose.

Also before a committee, [HB 1043](#) repeals limits on the relocation expenses that a displacing agency in a condemnation action must pay to a person displaced because of the action. The bill adds costs for which a displacing agency must pay a displaced person, and increases the minimum alternative amount, from \$20,000 to \$50,000, that a person displaced from a business or farm operation may receive.

STATE GOVERNMENT

Both StateStat bills ([SB 102/HB 137](#)) have passed their chambers of origin with second chamber hearings as the next step. The resolution that expresses regret for Maryland’s role in slavery and its legacy ([SJ 6](#)) has advanced to the House and is waiting for a committee hearing on that side. The Senate also passed on second reading legislation to name May 27 as Rachel Carson Day to commemorate Carson’s leadership in launching the contemporary environmental movement ([SB 331](#)).

TRANSPORTATION

Testimony was heard this week on a measure that exempts certain motorcycle riders from wearing protective headgear. Specifically, [SB 226](#) exempts an operator or occupant of any three-wheeled motorcycle equipped with an enclosed cab and exempts an individual 21 or older who has been licensed to operate a

motorcycle for at least two years. Additionally, an individual 21 or older who has completed a motorcycle-rider safety course, or who meets the same age requirement and is a passenger on a motorcycle operated by another exempt individual is also exempt. Current law does not allow anyone to operate or ride a motorcycle without wearing a helmet unless they are riding in an enclosed cab.

Legislation has moved to the opposite chamber that, in its amended form, requires each applicant for a learner’s instructional permit who is under the age of 16 to present to the Motor Vehicle Administration (MVA) a certified copy of the applicant’s school attendance record. Under [HB 571](#), the MVA may not issue a learner’s permit to an applicant under the age of 16 if the applicant’s school attendance record indicates more than 10 unexcused absences within the past calendar year.

Other legislation addressing the use of protective headgear for minors is waiting for a committee vote:

- [SB 482/HB 261](#) prohibit an individual younger than 16 from operating or riding on an all-terrain vehicle (ATV) unless the minor is wearing protective headgear that meets the standards for motorcycles helmets; and
- [HB 718](#) prohibits an individual younger than 16 from riding on a skateboard on any property open to or used by the public for pedestrian or vehicular traffic unless the individual is wearing a helmet.

Companion measures ([SB 587/HB 459](#)) that authorize a police officer to issue a traffic citation in an electronic format have passed to the opposite chamber in identical form. The measures require the Chief Judge of the District Court to authorize the use of a single document for the issuance of multiple traffic citations.

Administration bills ([SB 73/HB 57](#)), already heard in their respective committees, provide relief from mandated funding in fiscal 2008 to pay for the Intercounty Connector (ICC). The funding will be deferred until fiscal 2010 at the latest. Specifically, the bills repeal the requirement that the Governor transfer at least \$50 million in fiscal 2008 from the general fund to the Maryland Transportation Authority (MdTA).