



# The Legislative Wrap-Up

Library and Information Services, Department of Legislative Services

---

Issue 07-11

March 19-23, 2007

---

*(Click on Issue above for previous Wrap-Ups)*

## FIRST 2007 BILL SIGNING

The first bill signing of 2007 took place on March 22. Governor O'Malley signed five measures. Two were emergency bills that became effective on signing. [SB 106](#) (Ch. 1), a part of the package of bills requested by the Governor, prohibits beginning January 22, 2007, the creation of new residential ground rents. [HB 60](#) (Ch. 2), sponsored by the Southern Maryland Delegation, relates to electric cooperatives and their continuing purchase of energy for standard offer service.

The remaining three measures signed by the Governor add a new Human Services Article to the Annotated Code of Maryland, [SB 6](#) (Ch. 3), cure possible title and other defects in the Code through the Annual Curative Bill, [SB 33](#) (Ch. 4), and correct nonsubstantive errors and omissions in the Code through the Annual Corrective Bill, [SB 150](#) (Ch. 5). These measures originated with the Department of Legislative Services.

---

## OPPOSITE CHAMBER CROSSOVER DATE

Another important deadline in the legislative process is the 76<sup>th</sup> day or March 26 this session. By this day 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.

---

## COURTS AND CIVIL PROCEEDINGS

The Senate approved [SB 46](#) that establishes new procedures for the nonpartisan nomination and election of circuit court judges, enabling registered voters, whether or not affiliated with a major political party, to vote in primary elections and repealing the practice of nomination by petition.

Current law provides that if a tort claim release, i.e., a promise not to sue, or a contract of employment with an attorney with reference to recovery of tort damages is signed by an injured accident victim within 5 days of sustaining the injury, then the release or contract is voidable within 60 days after the victim signed it. [SB 368/HB 387](#) extend to 30 days the period allowed for signing a release or contract, and require the notice that a

release is voided to be in writing and accompanied by the return of any money paid to the injured person as a result of signing the release. Both bills are under consideration in the opposite chamber. No longer identical, [SB 368](#) further provides that the injured person must sign the release without the assistance or guidance of an attorney.

The Maryland Comparative Negligence Act ([HB 110](#)) was withdrawn by its sponsor this week. The bill would have allowed a plaintiff in a tort action who is less than 50% responsible for his injury to receive proportional damages. No action has been taken on companion [SB 267](#).

Failing a committee vote, [SB 575](#) would have established a one-year window of opportunity for childhood victims of sexual abuse to sue their abusers, no matter the victims' current age. The current statute of limitations, which is when the victim reaches the age of 25, would have resumed after December 31, 2008.

Marriage bills also failed in committee this week. [HB 919](#) would have amended the Maryland Constitution to establish that only a marriage between a man and a woman is valid in the State, that all rights are to be conferred equitably and not based on sexual orientation, and that teaching same sex relationships in K-12 public schools is not permitted. [HB 774](#) would have defined marriage as a lifetime commitment between a man and a woman and would have established 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 and may establish a rate for a benefit plan for a married couple that differs from the rate for a nonmarried couple.

---

## CRIMES, CORRECTIONS, AND PUBLIC SAFETY

Legislation passed to the opposite chamber this week that:

- requires 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

and after a hearing) to be at significant risk of committing another sexually violent offense or child sexual offense ([SB 738](#));

- designates as a crime of violence sexual abuse of a minor under the age of 13 involving certain acts by a household or family member or parent or other person who has permanent or temporary care, custody, or responsibility for the supervision of the minor. The designation earns offenders enhanced penalties. Also designated as a crime of violence is the crime of engaging in a continuing course of conduct that includes rape or sexual offense against a victim under the age of 14 over a period of 90 days or more ([SB 170](#));
- creates new offenses regarding criminal gangs that allow the prosecution of gangs “as a whole” and across local jurisdictions and authorize the Attorney General, at the request of a State’s Attorney, to aid in investigations and prosecute violations ([HB 713](#)); and
- requires all cigarettes manufactured or sold in Maryland after June 30, 2008, to be self-extinguishing, with some exceptions for existing inventories ([HB 785](#)).

Voted down in committee this week:

- [HB 1000](#) would have required a DNA sample to be taken from persons arrested for a felony, fourth degree burglary, or breaking and entering a motor vehicle; and
- [HB 587](#) would have excluded from juvenile court jurisdiction juveniles who commit acts as a gang member that would be crimes if committed by an adult.

Failing floor votes after amendments were accepted:

- [SB 193](#) would have provided that a criminal defendant’s statement made during custodial interrogation for murder is presumed involuntary unless it is electronically recorded, with certain exceptions; and
- [HB 992](#) would have allowed for the possibility of parole during a 10-year mandatory minimum sentence for a second offense of certain crimes involving controlled dangerous substances if the offender was not also convicted of a crime of violence arising out of the crime.

## **ECONOMIC AND BUSINESS ISSUES**

Two bills ([SB 976](#) and [HB 1007](#)) making changes to the existing biotechnology tax credit program have had their first hearings recently. Both bills relate to administrative aspects and eligibility of the program applicants, the maximum value of the credit, and procedures for claiming the credit. Companion bills similar to [SB 976](#) were submitted during the 2006 session.

Moving to the opposite chamber this week, [HB 1185](#) increases the wage rebate subsidy for film, television, commercial, and video production companies, and provides that the actual amount disbursed is at the discretion of the Department of Business and Economic Development.

Legislation that was unsuccessful or withdrawn this week included:

- [SB 494/HB 620](#) would have required an insurer that provides homeowner’s insurance to provide coverage beyond a “coastal area”; and
- [SB 34](#) would have authorized a county, a municipal corporation, or a group of counties or municipal corporations to act as an aggregator that purchases electricity on behalf of customers under specified conditions on an opt-out basis. The companion bill, [HB 676](#) had a hearing on March 13.

---

## **EDUCATION**

Legislation passing in the first chamber includes:

- [SB 475](#) that establishes a task force to evaluate the use of the Maryland high school assessments as a diploma requirement and suggests targeted interventions to increase the assessment passage rate. The companion measure, [HB 994](#), is still in a House committee;
- [SB 416](#) provides that nonpublic institutions of higher education must submit an annual report on their programs to promote and enhance cultural diversity. Public institutions of higher education must develop and implement a plan for a program of cultural diversity and submit an annual progress report regarding the implementation of the plan. The companion bill, [HB 777](#), was heard this week by a House committee this week; and
- [SB 739](#) prohibits Senators and Delegates from awarding legislative scholarships to their relatives and to relatives of other legislators from the same

district. The bill was amended to say that a relative does not include a foster child or ward.

The House passed an amended [HB 475](#) that imposes recordation and transfer taxes on the transfer of real property with a value of \$1 million or more when the transfer is achieved through the sale of a “controlling interest” in a specified corporation, partnership, limited liability company, limited liability partnership, or other form of unincorporated business. Controlling interest is defined as more than 80% of the total value of the stock or the interest in capital and profits.

The bill also requires specified amounts of local recordation taxes to be dedicated to school construction and renovation for fiscal 2008 through 2011. State transfer taxes collected under the bill are dedicated to land preservation purposes. Additionally, an amendment provides that, for fiscal 2008 through 2011, a portion of the State transfer tax revenues will be dedicated annually to fund expenditures of the Maryland Park Service. The bill takes effect January 1, 2008.

Heard recently:

- [SB 698/HB 1094](#) allows the interception of oral communications on a school vehicle or passenger bus used to transport children, students, or teachers for educational purposes or in connection with a school activity; and
- [HB 1132](#) requires that any excess State funds committed to a public school construction project that is completed at a cost that is less than the approved total cost revert to the county school board to fund other approved school construction or improvement projects in that county.

---

## ELECTIONS AND ETHICS

This week the House passed legislation that mandates voter-verified paper trails. As amended, implementation is contingent on the appropriation of sufficient funds for elections in 2010 ([HB 18](#)).

In response to problems encountered during the recent gubernatorial election related to receipt by local boards of elections of absentee ballot applications and of absentee ballots, several bills are moving through the process:

- House legislation before a Senate committee this week requires an absentee ballot application, except for applications made in person at a local board of elections, to have been received by a local board 10

days preceding an election, rather than the Tuesday preceding an election ([HB 16](#)).

- Scheduled for a Senate hearing next week, House-approved legislation includes the provision that absentee ballots received in the mail are timely if received by the local board by specified dates and are mailed on or before election day, rather than before election day, as currently required ([HB 365](#)).

Senate legislation, supported by testimony before a Senate committee recently, addresses receipt of absentee ballots by voters. Specific provisions require local election boards, beginning five weeks before election day, to send absentee ballots to voters within seven days of receiving an absentee ballot application. If an absentee ballot application is received before the Tuesday before the election, the corresponding absentee ballot must be mailed on or before the fifth day before the election. For any applications received on or before the day five weeks before election day, corresponding absentee ballots must be sent out on or before the day four weeks before election day ([SB 786](#)).

Late in the week, action was taken on bills related to restoration of voting rights for convicted felons. The Senate bill, [SB 488](#), has passed that body with the provision that an individual is not qualified to be a registered voter if the individual has been convicted of a felony, and is actually serving a court-ordered sentence of imprisonment, including any term of parole or probation, for the conviction.

On the House side, [HB 554](#) will be considered early next week. This bill allows an individual convicted of a felony to register to vote if not actually serving a court-ordered sentence imposed for the conviction. [HB 273](#), on the same subject, received an unfavorable committee vote this week.

---

## ENVIRONMENT, NATURAL RESOURCES, AND AGRICULTURE

Several environment-related bills passed to the opposite chamber this week:

- [HB 473](#), as amended, requires the Department of Natural Resources to adopt regulations governing a permissible bycatch of soft crabs.
- [HB 964](#) extends the prohibition from using hydraulic or mechanical dredges to catch oysters and clams in certain parts of the Chesapeake Bay to the State’s Atlantic Coastal Bays. The crossfiled bill, [SB 379](#), is waiting for action on the Senate floor.

- [HB 1131](#), as amended prohibits the sale or use of household dishwashing machine detergent containing more than 0.5 percent of phosphorus after July 1, 2010. The crossfiled bill, [SB 766](#), for which testimony will be heard in a House committee on March 28, provides for a date of July 1, 2009.

Two bills that encouraged the use of renewable fuels have received unfavorable committee reports:

- [HB 660](#) (failed) would have set minimum percentages for the sale of biodiesel fuel. The crossfiled bill, [SB 261](#), as amended, creates the Task Force on Renewable Alternative Fuels to study the potential future use and impact of biodiesel and renewable fuels in Maryland, is in a House committee.
- [HB 1262](#) (withdrawn) would have expanded 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. The crossfiled bill, [SB 829](#), has also been withdrawn.

---

## FINANCIAL INSTITUTIONS AND COMMERCIAL LAW

Legislation to protect consumers' personal information saw action in both chambers this week. The House passed its version of consumer-initiated security freezes on credit reports ([HB 117](#)) with a House committee considering the Senate's version ([SB 52](#)). The House also passed its bill addressing personal information held by businesses and consumer notification when that information is breached ([HB 208](#)). The Senate passed its security breach proposal earlier this session ([SB 194](#)). Other bills dealing with these issues were either withdrawn or received an unfavorable report ([HB 90](#), [SB 904/HB 123](#), [HB 739](#)).

---

## FISCAL MATTERS

[HB 50](#), the Budget Bill, has passed third reading in the Senate with 135 amendments, reducing appropriations by \$204.7 million, including \$173.8 million in general funds. Two floor amendments were defeated, one of which would have reduced general fund appropriations by \$530 million, primarily in educational aid. Much of the proposed spending reduction was contingent upon the enactment of [SB 1021](#), the "Budget Reconciliation Act of 2006," which modifies education aid formulas

and makes other statutory changes to reduce mandated spending.

Among the amendments made by the Senate to the Budget Bill are ones:

- restoring \$19.4 million to Medical Assistance, leaving \$20 million in general fund reductions;
- restoring \$5 million to the Heritage Structure Rehabilitation Tax Credit, leaving \$10 million in general fund reductions;
- restoring \$200,000 to non-public school textbook assistance, bringing the funding level to its original \$3.9 million;
- restoring \$500,000 of Education Department excess assessment test funds, leaving a reduction of \$14 million instead of \$14.5 million;
- restoring \$9.8 million to public and private higher education funding reductions, leaving \$2 million in reductions;
- restoring \$2.9 million in Film Production Wage Credit Program funds, bringing the appropriation to its original \$6.9 million;
- reducing the Maryland Stem Cell Research Fund by \$10 million, leaving \$15 million;
- eliminating \$53 million for the Intercounty Connector in the Dedicated Purpose Account in the State Reserve Fund;
- increasing State employee hiring freeze savings of \$10 million from \$7 million.

As of Friday, both the Senate and House have appointed a conference committee of three Senators and three Delegates to resolve the differences between the two bodies. If the Budget Bill has not passed the two houses in identical form by April 2, the 83<sup>rd</sup> day, the Governor must issue a proclamation extending the session. If the Budget Bill has not passed the two houses in identical form by April 9, the 90<sup>th</sup> day, the General Assembly will stay in extended session able to deal only with the Budget Bill and the costs of the extended session.

[HB 51](#), the "Maryland Consolidated Capital Bond Loan of 2007," has passed second reading in the House, authorizing a State debt of \$817.4 million.

House amendments include:

- allocating otherwise unallocated public school construction funds by county;

- adding \$9.2 million for an oyster production facility at the University of Maryland Center for Environmental Science’s Horn Point Laboratory;
- reducing from \$99.2 million to \$74.2 million the funds for the physical education complex at Coppin State University and adding language authorizing construction to begin prior to appropriation of all the necessary funds;
- adding \$500,000 for the Maryland Artificial Reef Initiative; and
- adding \$10 million in House local projects and \$10 million for local projects to be added by the Senate.

[HB 51](#), as a supplementary appropriations bill, may not pass until the Budget Bill has been adopted, but the General Assembly may start moving the bill.

---

## GAMING, RACING, AND SPORTS

Passing the Senate, [SB 536](#) requires \$250,000 of State Lottery net revenues to be distributed annually to provide grants for compulsive gambling treatment. Consideration will now shift to the House.

---

## HEALTH CARE AND HEALTH INSURANCE

Senate and House committees reported their respective State smoking ban expansion bills to the floor this week with [SB 91](#) passing second reading on the Senate floor; [HB 359](#) will receive House floor action soon. Both bills now contain financial hardship waivers for businesses, but the Senate version exempts fraternal and social organizations from the bill’s requirements. An unfavorable committee report was given to [HB 78](#), which expanded smoking prohibitions in public places and allowed waivers.

Passing second reading on the Senate floor is an amended [SB 149](#), the Administration’s Maryland Health Care Access Act of 2007, including expanded eligibility in the Maryland Children’s Health Program, discounts in small group health insurance market for wellness activities, and allowing health insurance coverage to continue for unmarried dependents under age 25.

Unfavorable committee reports were issued this week on the establishment of a Canadian mail order plan for prescription drugs ([SB 670](#)) and prohibition on use of trans fat by food service facilities ([SB 633](#)).

## REAL PROPERTY, ESTATES, AND TRUSTS

This week, several measures dealing with ground rents have passed their respective chambers with amendments and moved to the opposite chamber. Senate bills that are now in the House and House bills that are now in the Senate include:

- [SB 396/HB 463](#) that alter the remedy for nonpayment of a ground rent by abolishing ejectment as the remedy and provide for the creation of a lien;
- [SB 397/HB 452](#) (an Administration bill) that authorize the conversion of an *irredeemable* ground rent to a *redeemable* ground rent;
- [SB 398/HB 502](#) (an Administration bill) that impose new notice requirements on both the leasehold tenant and the ground lease holder, as well as the seller of property subject to a ground lease;
- [SB 622/HB 580](#) (an Administration bill) that create a new online registry of properties that are subject to a ground rent;
- [SB 623/HB 489](#) (an Administration bill) that make changes to facilitate the redemption of ground leases, including repeal of the five year waiting period for a leasehold tenant to redeem a ground rent that was created after 1982; and
- [HB 1125](#) that requires a contract for the sale of real property subject to a redeemable ground rent to contain a notice about the existence of the rent, responsibility to pay the rent, and the right to redeem the rent.

Two of the ground rent bills moving forward are specific to Baltimore City. [SB 755/HB 458](#) (an Administration bill) limit a ground lease holder, if property is abandoned or distressed, and owned by Baltimore City, to get reimbursed only for up to three years past due ground rent.

---

## STATE GOVERNMENT

Senate legislation ([SB 331](#)) to designate May 27 as Rachel Carson Day is now in the House for consideration.

Companion bills, [SB 543/HB 1336](#), each afforded a committee hearing in their chamber of origin, require the State Retirement and Pension System (SRPS) to take steps toward divestiture of investments with the

government of Sudan. [HB 1336](#) passed second reading on the House floor.

Another measure, also before a House committee recently, bars the Board of Trustees of SRPS from retaining a company to manage all or a portion of its assets unless the fund manager certifies in writing to the board and the State Treasurer that it does not invest pension fund assets in entities with economic ties to Iran, Syria, Sudan, or North Korea ([HB 1333](#)).

---

## **TRANSPORTATION**

Amended legislation is being considered that requires an 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. As amended and on the Senate floor, [SB 519](#) prohibits the MVA from issuing a learner's permit to an applicant under the age of 16 if the applicant has more than five unexcused absences from the school during the prior school semester.

An almost identical measure, [HB 571](#), now in the Senate, prohibits the MVA from issuing a learner's permit to an applicant under 16 years if the applicant has more than 10 unexcused absences from school within the past calendar year.

*Bill status is current as of 1:00 PM on 3/23/07.*