



The Legislative Wrap-Up

Library and Information Services, Department of Legislative Services

2007 Special Session

October 29, 2007 – November 19, 2007

On Monday, October 15, 2007, Governor Martin O'Malley issued Executive Order 01.01.2007.23 convening the General Assembly of Maryland into a special session beginning on October 29, 2007, "for the purpose of passing legislation to address Maryland's structural deficit." The deficit is estimated to reach \$1.7 billion by fiscal 2009.

During the special session, 94 bills were introduced, 34 in the Senate and 60 in the House. Of these, the General Assembly amended five administration measures, i.e. bills introduced by the President of the Senate and the Speaker of the House on behalf on the Governor, to form the legislature's response to the deficit. The Governor also included in his package a sixth bill that focused on extending health care coverage for a portion of the State's uninsured citizens.

As introduced, the administration bills addressed the following: Budget Reconciliation Act ([SB 1/HB 1](#)); Tax Reform Act of 2007 ([SB 2/HB 2](#)); Maryland Education Trust Fund – Video Lottery Terminals ([SB 3/HB 3](#)); Video Lottery Terminals – Authorization and Limitations ([SB 4/HB 4](#)); Transportation Investment Act ([SB 5/HB 5](#)); and Working Families and Small Business Health Coverage Act ([SB 6/HB 6](#)).

Lengthy deliberations in committee hearings and intense floor debates in each of the chambers continued for several weeks, as legislators considered the options before them. On Saturday, November 18, and through the early hours of Sunday, November 19, the Senate and the House worked to reach agreement on six administration bills that ultimately were passed with numerous amendments.

The 2007 Special Session was adjourned *sine die* early in the morning of November 19, 2007; and at an afternoon ceremony on November 19, Governor O'Malley signed the passed legislation into law.

BUDGET RECONCILIATION ACT

This law ([HB 1](#), Chapter 2, Acts of the 2007 Special Session, various effective dates) adjusts State funding commitments and declares that it is the intent of the General Assembly that the Governor identify a total of \$550 million in spending reductions from the fiscal 2009 current services budget. Other components of the

omnibus bill express legislative intent that \$77 million from the State Employees and Retirees Health and Welfare Fund be used to reduce State expenditures on health insurance for fiscal 2009. State employees are to receive one additional pay period with no health insurance payments.

Other provisions require the Governor to develop a plan to eliminate 500 vacant positions in State government, but no cuts are to be made in higher education, the Department of Public Safety and Correctional Services, or to State Police helicopter pilots. Further, the law eliminates the mandated electric utility property tax grants to 11 counties.

Additionally, the law freezes inflation in the per pupil amount used in the education aid formulas for fiscal 2009 and 2010, but establishes supplemental grants that ensure at least 1% annual increases in State aid for each school system during the two-year freeze, and requires that the inflation figure used in the education aid formulas be moderated. The greater of \$21 million or 20% of Program Open Space (POS) funds will go to operate State parks and forests, and the local share of POS funds is reduced.

TAX REFORM ACT OF 2007

This new law ([SB 2](#), Chapter 3, Acts of the 2007 Special Session, various effective dates) overhauls the State's tax structure beginning January 1, 2008, to increase revenues by \$77.1 million in fiscal 2008, and by \$412.2 million beginning in fiscal 2009. The law achieves these goals by:

- establishing new individual income tax brackets and rates beginning January 1, 2008, with the top rate set at 5.5% for single or joint filers whose Maryland taxable income is in excess of \$500,000;
- expanding the refundable earned income credit beginning January 1, 2008; and
- altering the regular personal income tax exemption to increase from \$2,400 to \$3,200 for individuals with federal adjusted gross income of up to \$100,000 (\$150,000 for joint filers), but gradually decreases the exemption to \$600 for taxpayers with higher incomes.

The law extends the sales tax to computer services including computer facilities management and operation, custom computer programming, computer system planning and design that integrate computer hardware, software, and communication technologies, computer disaster recovery and data processing, storage, and recovery, as well as hardware or software installation, or maintenance and repair. This provision is effective beginning in fiscal 2009 and sunsets June 30, 2013.

The sales tax does not apply to a sale of computer services for use by an individual participating in a home school program as an alternative to attendance at public or private school for elementary or secondary education. Proposals to apply the sales tax to health clubs, tanning salons, property management, or landscaping services were deleted.

The State corporate income tax rate increases from 7% to 8.25% of Maryland taxable income beginning January 1, 2008. The increased revenue will be distributed to the general fund, as well as to the newly created Higher Education Investment Fund. The Fund is established to supplement general fund appropriations to public senior higher education institutions, for their capital projects, and for workforce development initiatives.

Additionally, this new initiative imposes recordation and transfer taxes on the transfer of real property through the sale of a “controlling interest” in certain corporations beginning in fiscal 2009 and establishes a Maryland Business Tax Reform Commission to study the State’s current business tax structure including addressing the practice of “combined reporting” by corporations.

MARYLAND EDUCATION TRUST FUND – VIDEO LOTTERY TERMINALS

This law ([SB 3](#), Chapter 4, Acts of 2007 Special Session) establishes the operational and regulatory framework for the proposed video lottery terminal (VLT) program, or slots. The measure is contingent on the ratification by the voters of Maryland at the general election in November 2008 of the proposed constitutional amendment ([HB 4](#), Chapter 5, Acts of 2007 Special Session).

Under [SB 3](#), an expanded State Lottery Commission will provide oversight and will own/lease VLTs and the central monitor and control system. Up to five licenses may be awarded at specific locations named and no more than one in any county. Ownership in more than one video lottery operation license is prohibited.

The gross VLT revenue is distributed as follows: 48.5 to 51% to the Education Trust Fund to be used for the

Bridge to Excellence in Public Schools Act funding, including the Geographic Cost of Education Index, public school and public higher education construction, including community colleges; 33% to lottery operation licensees; 7% to a purse dedication account to enhance horse racing purses and funds for the horse breeding industry, not to exceed \$100 million annually; 5.5% to local jurisdictions in which a video lottery facility is operating; 2.5% to racetrack renewal, not to exceed \$40 million annually; 2% to the State Lottery for administrative costs with other costs provided for in the annual State budget; and 1.5% to a small, minority, and women-owned business investment account.

VIDEO LOTTERY TERMINALS – AUTHORIZATION AND LIMITATIONS

To be submitted to the voters for ratification at the 2008 general election, this proposed constitutional amendment ([HB 4](#), Chapter 5, Acts of 2007 Special Session) authorizes expanded forms of gambling up to a maximum of 15,000 VLTs. A video operation license only may be awarded for a video lottery facility in the following locations:

- Anne Arundel County within two miles of MD Route 295;
- Baltimore City, if the video lottery facility is located in a nonresidential area; within one-half mile of Interstate 95; within one-half mile of MD Route 295; and on property that is owned by Baltimore City on the date on which the application for a video lottery operation license is submitted; and not adjacent to or within one-quarter mile of property that is zoned for residential use and used for a residential dwelling on the date the application for a video lottery operation license is submitted;
- Worcester County within one mile of the intersection of Route 50 and Route 589;
- Cecil County within two miles of Interstate 95; and
- on State property located within Rocky Gap State Park in Allegany County.

VLT facilities must comply with all allocable planning and zoning laws of the local jurisdictions. Under the amendment, additional forms or expansion of gaming may only be authorized by an act of the General Assembly through a referendum that is approved by voters in a general election. The constitutional amendment does not apply to currently authorized forms of gambling.

TRANSPORTATION AND STATE INVESTMENT ACT

This law ([HB 5](#), Chapter 6, Acts of 2007 Special Session, various effective dates) provides additional funding for transportation and other State programs. Provisions include:

- increasing the vehicle excise tax rate from 5% to 6% of the vehicle's purchase price or fair market value, allowing for a reduction in the amount subject to the tax by 100% of the value of a trade-in beginning January 1, 2008, and increasing the one-time certificate of title fee from \$23 to \$50;
- increasing the State sales tax rate from 5% to 6% beginning January 3, 2008;
- establishing one annual tax-free holiday for certain energy-efficient appliances and another for clothing and footwear costing \$100 or less beginning in fiscal 2011;
- redistributing 6.5% of the total sales tax revenues to the Transportation Trust Fund beginning July 1, 2008;
- providing funding in fiscal 2008 only to replace State Police helicopters with a portion of the revenues from the sales tax increase;
- establishing a Chesapeake Bay 2010 Trust Fund effective July 1, 2008, to be capitalized with a portion of existing revenues from the motor fuel tax and existing revenues from the sales tax on short-term vehicle rentals;
- increasing the State tobacco tax from \$1 to \$2 per pack of cigarettes beginning January 1, 2008; and
- imposing a 20% State admissions and amusement tax on net receipts from the operation of electronic bingo and tip jars beginning January 3, 2008.

WORKING FAMILIES AND SMALL BUSINESS HEALTH COVERAGE ACT

This emergency law ([SB 6](#), Chapter 7, Acts of 2007 Special Session, effective November 19, 2007) is aimed at providing coverage to more than 100,000 Marylanders when fully implemented in five years. The bill expands eligibility for Medicaid funding and establishes a Small Employer Health Benefit Plan Premium Subsidy Program to provide an incentive for certain small businesses to offer and maintain health insurance for their employees and to help the employees afford the premiums.

The measure contains limits on the expanded coverage, subject to the limitations of the State budget. Another provision allows a special fund operating grant to be provided to the Prince George's hospital system, if a long-term comprehensive solution to the control and operation of the facilities and the provision of health care services is reached.

VETO OVERRIDE

The Maryland Constitution requires that bills presented to the Governor after the adjournment of a session must be returned to the respective chambers in the beginning of the next session. The General Assembly may override the gubernatorial veto with a vote of three-fifths of the members of each chamber. Under Article II, Section 17(d), an ordinary bill takes effect 30 days after the override.

Early during the 2007 Special Session, the General Assembly sustained all of the gubernatorial vetoes of legislation from the 2007 regular session except for one veto ([SB 497](#)) that was overridden. The new law, Public Safety - Disposal of Handguns Owned by a Law Enforcement Agency ([SB 497](#), Chapter 1, Acts of 2007 Special Session, effective December 13, 2007), authorizes law enforcement agencies to dispose of agency-owned handguns by selling, exchanging, or transferring the handguns to a manufacturer.

Previously, agencies could only destroy the property or sell, exchange, or transfer the property to another law enforcement unit for official use. Under certain circumstances agencies could also sell the handgun to a retired police employee or sell the handgun to the law enforcement officer to whom the handgun was assigned.

RESIGNATION OF SENATOR J. ROBERT HOOPER

On November 14, 2007, Senator Hooper (Republican, District 35, Harford County) announced that he would resign because of ill health, effective December 31, 2007. A member of the Senate since 1999, Senator Hooper's current committee assignments include the Finance Committee, the Special Committee on Substance Abuse, and the Executive Nominations Committee, as well as the Joint Committee on Access to Mental Health Services. A Harford County business owner for many years, Senator Hooper previously served on the Harford County Council and has remained active in many community activities.

SPECIAL SESSION FACTS

Maryland Senators and Delegates, both elected to four-year terms, primarily exercise their lawmaking powers during the annual regular session that begins on the second Wednesday in January and ends 90 calendar days later. Since the Revolutionary War only 57 special sessions have been held outside the regular timeframe. Until three years ago, it had been over a decade since a special session was convened. There were four special sessions in the 1990s and four in the 1980s. Then, in 2004 and in 2006, the General Assembly met in special sessions to address the costs of medical malpractice insurance and electric rate relief, respectively.

The structure and procedures governing a Maryland special session are determined by the Maryland Constitution, each chamber's rules, Maryland statutes, and court decisions. A special session may convene in two ways. It may be called by the Governor or, if a majority of the members elected to the Senate and to the House petition the Governor to call a special session at a date specified in the petition, such as in 2006, the Governor must issue a proclamation calling a special session.

A special session is limited to 30 days and may not be extended. If more time is needed, another special session must be called. The powers of the legislature in a special session are as broad as in a regular session, and the legislative process is exactly the same as for a regular session.

Once the Governor has called a special session, he may not adjourn it nor may he force members to attend. As well, the Governor's proclamation of a special session for a particular reason may not limit the subject matter of legislation. Thus, legislation may be introduced on any subject. Once introduced, the presiding officers may refer some of the legislation to the Senate Rules or House Rules committees, as appropriate, to ensure that the focus remains on the legislation that deals with the core issues for which the special session was called.

Maryland law also prohibits fund-raising during a regular session, but does not speak to a special session. The legislature's Ethics Counsel has, however, advised legislators not to schedule fund-raisers during a special session "for the express purpose of coinciding with a special session."