



# The Legislative Wrap-Up

Library and Information Services, Department of Legislative Services

---

Issue 10-4

February 1-5, 2010

---

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

## BILL INTRODUCTIONS AND DEADLINES

As of Friday, February 5, bill introductions reached 633 in the Senate and 775 in the House.

---

## STATE OF THE STATE

At noon on Tuesday, February 2, Governor Martin O'Malley delivered his fourth State of the State address to Senators and Delegates assembled jointly in the House chamber. With a heavy emphasis on restoring the State's economy, the Governor outlined his 2010 legislative proposals which include measures to create, save, and protect jobs, help small businesses, aid Marylanders in preventing home foreclosures, and support and enhance job creation initiatives relating to infrastructure, sustainable communities, and environment.

The Governor stressed that because of the State's past choices, "the State of the State is stronger than most." He pointed to the national No. 1 rating of Maryland's K-12 public education system, the four-year tuition freeze at Maryland's public colleges and universities, and Maryland's AAA bond rating held by only six other states in the union. He also mentioned that violent crime in Maryland is the lowest since 1987 and noted the increase in health insurance coverage for Marylanders, especially children. In conclusion, Governor O'Malley underscored his belief that "connecting Maryland's journey to its resources, creativity and dreams is our great work" and that as "One Maryland," we will move forward together.

---

## COURTS AND CIVIL PROCEEDINGS

Hearings were held this week on bills regulating the international marriage broker industry ([SB 129/HB 65](#)). The bills require a broker to disclose the client's marital and criminal history record to a recruited woman prior to providing any services to either party.

Victims of domestic violence are eligible to receive an award from the Criminal Injuries Compensation Fund for the reasonable costs of up to 14 days of temporary lodging under [SB 123](#), providing an option for those

who can't get into a conventional shelter. The bill was heard by a committee this week.

Voted down in committee, [HB 90](#) would have provided that a marriage between two individuals of the same sex that is validly entered into in another state or in a foreign country is not valid in Maryland and marriages between individuals of the same sex are against the public policy of this state.

---

## CRIMES, CORRECTIONS, AND PUBLIC SAFETY

[SB 125](#) prohibits a police officer from conducting or supervising a strip search or body cavity search on a person arrested for a misdemeanor or traffic offense that does not involve weapons, controlled dangerous substances, or a crime of violence unless the officer has a reasonable suspicion that the person has a concealed weapon or controlled dangerous substance that would be discovered in the search. The bill, before a committee this week, requires the highest-ranking supervising officer on duty to authorize the search and provides search restrictions. The companion bill, [HB 255](#), is scheduled for a committee hearing next week.

Under current law, a person may not use any handgun or an "antique firearm" capable of being concealed on the person in the commission of a crime of violence or felony. A violation is a misdemeanor and, in addition to any other penalty imposed for the crime of violence or felony, earns a minimum non-parolable sentence of five years and a maximum sentence of 20 years. For each subsequent violation, the sentence must be consecutive to and not concurrent with any other sentence imposed for the crime of violence or felony. Public testimony was taken this week on [HB 157](#), which expands the prohibition to apply to any firearm, including rifles and shotguns. The companion bill, [SB 44](#), has no hearing date yet; an identical bill, [HB 309](#), will be heard next week.

[HB 207](#), which had a hearing this week, provides that a person is not liable for damages for a personal injury or the death of an individual who enters the person's dwelling or place of business with the intent to commit a crime of violence or a burglary in the first, second, or

third degree, providing that the person does not act with malice or gross negligence. Identical bill [SB 386](#) and similar bill [SB 411](#) have not yet been scheduled for a hearing.

Following the controversial firing of the former Maryland Public Defender in August by the Office of the Public Defender's Board of Trustees, [HB 122](#) repeals the authority of the Board to remove the Public Defender; authorizes the Governor to remove the Public Defender under specified circumstances and only upon the Board's recommendation; expands the Board from 3 to 13 members; and alters Board appointment provisions. The bill had a hearing this week. A hearing is not yet set for [SB 97](#), which alters provisions for appointment to the Board and expands the Board to 11 members.

---

## **ECONOMIC AND BUSINESS ISSUES**

### *Unemployment Insurance*

Administration bills concerning the modification of Maryland's unemployment insurance law were heard last week before Senate and House committees ([SB 107/HB 91](#)). The bills make changes allowing Maryland to access \$126.8 million in federal stimulus funds to shore up declining revenues due to the recession. However, many businesses owners want changes in the bill's language to reduce the extended benefits that they believe will cost them more money in the long term.

The bills' provisions include reducing the unemployment insurance tax rate charged to employers if the taxable wage base has decreased by more than \$1.0 billion during the previous calendar year and if the Unemployment Insurance Trust Fund (UITF) has received a specified amount of revenue from additional sources. The bills also reduce interest rates on penalties charged to employers for late payments into the UITF. The measures also allow an alternative "base period" for those who don't qualify for benefits under the current "base period," and expand benefits to those who have exhausted their benefits and are enrolled in employment training. For individuals seeking part-time work and receiving benefits, the bills require that they seek work for hours comparable to their most recent part-time employment and that the work is at least 20 hours per week.

Related bills include [SB 300](#), an emergency measure that allows employers to pay their unemployment contributions into the UITF in installments throughout calendar year 2010; and emergency measure [HB 591](#),

which alters the unemployment insurance charging and taxation system.

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

Testimony was heard this week on [SB 33](#). This bill proposes a constitutional amendment that gives every person the right to hunt, fish, or harvest wild game, subject to regulatory and statutory restrictions. Testimony has also been given on bills aimed at encouraging commercial aquaculture in the State. [SB 3](#) and [HB 89](#) exempt aquaculture activities, including oyster farming, from fees for applications to the Maryland Department of the Environment for wetlands and waterways permits or to the Board of Public Works for a wetlands license.

---

## **FISCAL MATTERS**

### *Tax Credit for Employers*

The Administration's Job Creation and Recovery Tax Credit legislation ([SB 106/HB 92](#)) creates a State income tax credit for employers who hire qualified individuals during the 2010 calendar year. A qualified employee is defined as an individual who at the time of hiring is a State resident receiving unemployment insurance benefits or has exhausted unemployment insurance benefits within the past 12 months; and is not employed full time. The value of the credit is equal to \$3,000 per eligible employee hired, not to exceed \$250,000 per taxpayer. The Department of Labor, Licensing, and Regulation (DLLR) is authorized to award \$20 million in credits on a first-come, first-served basis. DLLR and the Comptroller's Office may jointly adopt regulations to carry out the provisions of the bill. DLLR is required to report on the tax credit to the Governor and the General Assembly by April 1, 2011. Both bills were heard this week.

### *Income Tax Modification for Veterans*

[SB 1/HB 1](#) increase the maximum military retirement income subtraction modification from \$5,000 to \$10,000 of retirement income that can be excluded from the State income tax. The bills take effect July 1, 2012, and apply to tax years 2012 and beyond. Both the Senate and House bills were before committees this week.

### *Repeal of Coal Tax Credit*

Under current law, Maryland public service companies and certain co-generators and electricity suppliers may claim a \$3 per ton tax credit for purchasing Maryland-mined coal. [SB 141](#), the Budget Reconciliation and

Financing Act of 2010 (BRFA), contains a provision to repeal this tax credit. The credit can be claimed against the public service franchise tax and the State income tax. Companies are not required to consume the coal in order to claim the credit. Chapter 247 of 2006 phased out the credits by capping the maximum amount of credits that can be claimed at \$9.0 million annually in tax years 2007 to 2010, \$6.0 million annually in tax years 2011 to 2014, and \$3.0 million annually in tax years 2015 to 2020. The credit is set to terminate after 2020. No hearing date has been scheduled.

---

## HEALTH CARE AND HEALTH INSURANCE

### *Nurse Practitioners*

**SB 484/HB 319** alter requirements for certification as a nurse practitioner and require the State Board of Nursing to waive some education requirements. The bills also repeal a requirement that the State Board of Physicians approve the scope of practice of certain nurse practitioners. The House bill has a hearing scheduled for next week.

### *False Claims Act*

Crossfiled Administration measures, **SB 279/HB 525**, aimed at allowing recovery of damages and penalties from individuals who defraud the State, prohibit false claims against a State health plan or a State health program; provide penalties for making false claims; authorize the State or a person on behalf of the State to file a civil action against a person who makes a false claim; and provide for the procedures to be followed and remedies in a civil action. A similar measure failed on third reading in the Senate last year. Hearings have been scheduled for the 2010 measures for the late February in the Senate and early March in the House of Delegates.

### *Public Health*

On February 2, a House committee heard **HB 33**, that prohibits the sale, manufacture, or distribution of children's toys or child care articles that contain the chemical bisphenol-A (BPA) on or after January 10, 2011. A "child care article" is defined as a product meant to facilitate sleep, used to feed children, or to help a child with sucking or teething that is intended by a manufacturer to be used by a child younger than age four. A "children's toy" is a toy or product intended by the manufacturer for a child younger than age 13. Manufacturers must instead use the least toxic alternative, and may not replace BPA with specific carcinogens or reproductive toxicants. Violators are guilty of a misdemeanor and subject to fines of up to

\$10,000 per violation. The crossfiled Senate measure, **SB 213**, is scheduled for a hearing on February 17. Another bill, **HB 35**, seeks to prohibit the use of Decabrominated Diphenyl Ether (DecaBDE), which is a flame-retardant, in various products. **HB 35** is scheduled to be heard on February 10, while its Senate companion, **SB 353** has not yet been scheduled for a hearing. Another measure, **SB 556**, also places prohibitions on the use of DecaDBE. Both BPA and DecaDBE bills were introduced but failed to pass in the 2009 session.

---

## REAL PROPERTY, ESTATES, AND TRUSTS

Heard in committee, **SB 158** prohibits the use of a tax sale, foreclosure, or other judicially approved sale as an enforcement mechanism for a lien or judgment arising from any unpaid water, sewer, or other sanitary system charges, fees, or assessments charged for a property. Under the bill, sanitary commissions may no longer sue any person who was an owner of record since a benefit assessment was last paid to collect unpaid charges or file suit to enforce a lien through a sale of the property.

---

## STATE GOVERNMENT

As directed by the Maryland Constitution, resolutions (**SJ 2/HJ 3**) from the Governor's Salary Commission establish the salaries for the Governor and Lieutenant Governor for the next four-year term beginning in January 2011. The resolutions, both of which had committee hearings this week, provide that the salaries be maintained at the 2006 level for the first two years of the 2011 term with increases in year three and four. Late in the week, the House committee voted to reject the recommendations in **HJ 3** and maintain the current salary levels, first set in 2006.

The Governor's Salary Commission also makes salary recommendations for the Attorney General, Comptroller, Secretary of State, and Treasurer for the next four-year term of office. In **SB 143/HB 184**, the Commission recommends that the salaries of these officials be maintained at their current 2006 levels for the first two years of the next four-year term and increased in year three and four. Both bills were before Senate and House committees this week. Late in the week, the House committee voted to reject the recommendations in **HB 184**, thus to maintain the current salary levels, also set in 2006.

The General Assembly Compensation Commission, as required by the Maryland Constitution, makes recommendations in the last year of a term regarding

salaries and other allowances for the next four-year term. The 2010 commission's recommendations for legislators maintains salaries at the current level with raises only in year three and four linked to the State's unemployment rate. However, this week following a hearing, a House committee unanimously voted to reject the recommendations of the Commission and to make no changes for the upcoming term. Instead, in [HJ 5](#), salaries and reimbursement of expenses related to official out-of-state travel remain at the 2006 level. The allowance for in-district travel and optional retirement allowances remain as provided in 2002.

Another measure, [SB 26](#), implements a requirement of the Maryland Constitution. Article XIV requires that every 20 years a question be submitted to the voters asking whether a convention should be called to alter the Maryland Constitution or frame a new constitution. The question will be placed on the ballot at the November 2010 general election.

---

## **TRANSPORTATION**

[HB 143](#), which had a hearing on February 2, provides that a speed camera be used to record images of vehicles that are traveling at least 12 miles an hour over the posted work zone speed limit, only if a road worker is present in a conspicuously-marked work zone.

The bill also alters the definition of a "work zone" by repealing "regardless of whether workers are present" in reference to the defined area. The bill sets standards for acquiring and operating the work zone speed system. It is crossfiled with [SB 124](#).