The Legislative Wrap-Up

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BILL INTRODUCTIONS

To date 261 Senate bills and 235 House bills have been introduced or, in legislative lingo, “dropped in the hopper.” Many more bills are expected before the 90-day session reaches the Senate Introduction Date (February 4) and the House Introduction Date (February 11).

ADMINISTRATION LEGISLATION

This week Governor O’Malley submitted his proposed 2011 legislative agenda. Because only a member may introduce a bill, the Governor’s proposals are sponsored, by the President on the Senate side and designated as “By Request – Administration” and, on the House side, by the Speaker and designated as “By Request – Administration.” Additional sponsors, if any, are then listed. Collectively, the Governor’s bills are referred to as Administration legislation and include the operating budget bill (SB 85/HB 70) and the capital budget bond bill (SB 86/HB 71). Administration bills are introduced in both the Senate and House and therefore are “cross-filed” with identical language.

Several Administration proposals address Maryland’s criminal law:

- SB 174/HB 161 expands the penalties for the use of a firearm in the commission of a crime of violence or felony to ensure that serious felons and violent criminals face the same criminal penalty, no matter the type of firearm they use to commit their crime;
- SB 173/HB 172 reduces the good time/diminution credits for serious gun offenders to ensure that the sentences they receive are commensurate with the crime they committed; and
- SB 178/HB 162 make it a crime to intentionally fail to provide necessary assistance and resources for a minor, including food, clothing, medical care, and supervision unless a lack of financial resources is the sole cause for the failure. Maryland is the only state without a statute criminalizing child neglect.

Other proposals promote the State’s economy. The Invest Maryland Program (SB 180/HB 173) is a tax credit program designed to spur venture capital investment in Maryland businesses. Other bills (SB 176/HB 167 and SB 179/HB 164) support the use of electric vehicles in the State and establish a State income tax credit of 20% of the cost of electric vehicle recharging equipment to encourage individuals and companies to investment in this technology (SB 177/HB 163).

The Administration’s package also contains legislation that relates to health care and the implementation of the federal Affordable Care Act in Maryland. One bill (SB 183/HB 170) will align Maryland law with the consumer protections in the federal act. For example, in addition to making pre-existing condition exclusions illegal, the new rules will help Marylanders who have insurance by barring lifetime limits on their benefits and reducing their risk of losing that insurance when they become sick. Another bill (SB 182/HB 166) establishes a structure and framework to develop the required insurance exchanges.

COURTS AND CIVIL PROCEEDINGS

SB 50 makes a victim of domestic violence eligible to receive an award from the Criminal Injuries Compensation Fund for the reasonable costs of up to 14 days of temporary lodging if the victim is eligible for an award from the fund as the result of an injury from the domestic violence incident and sought temporary lodging to avoid further injury. The measure, which did not receive a House committee vote last year after passing in the Senate, had a hearing in a Senate committee this week.

CRIMES, CORRECTIONS, AND PUBLIC SAFETY

A license to carry a regulated firearm, including a concealed regulated firearm, issued to an individual by Delaware, Pennsylvania, or Virginia is valid in Maryland under HB 9, heard in a House committee on Tuesday. Virginia currently issues nonresident gun carry permits that are available to eligible Maryland residents.

FISCAL MATTERS

Operating Budget Bill

As submitted by the Governor, the FY 2012 proposed operating budget (SB 85/HB 70) totals $34.2 billion, a 3.1% increase from the fiscal 2011 budget as enacted, leaving an estimated $120 million surplus. There is a proposed $1 billion increase in spending, of which $828.4 million is an increase in Medicaid expenditures.

The Budget Bill meets the Spending Affordability Committee recommendation that the structural deficit be reduced by one-third in the fiscal 2012 budget. With a reduction of $680 million, the proposed budget exceeds the recommended reduction of $650 million.

State employee positions in the Executive Branch decrease by 322 positions in fiscal 2012, although the number of positions in higher education increases by 330, for a net gain of eight positions. There are sufficient funds in the proposed budget to eliminate State employee furloughs and to change the service reduction days to paid administrative leave. There is also $55.5 million to provide a $750 bonus to State employees during fiscal 2012.

The Budget Bill has a reduction of $101 million contingent upon a restructuring of the pension system for State employees, which is contained in SB 87/HB 72, the Budget Reconciliation and Financing Act of 2011 (BRFA). Other budget reductions addressed in the BRFA affecting State employees and retirees include higher prescription co-pays and higher out-of-pocket expenses for a savings of $10 million and a separate prescription plan for retirees, for a savings of $35.4 million.

The proposed budget assumes no new taxes but is balanced with more than $440 million in reductions and reversions that are contingent upon legislation and $212 million in transfers from other funds to the General Fund, including a $100 million transfer from the Transportation Trust Fund, a transfer of $90 million from the Bay Restoration Fund, and new fees and reimbursements. Among the reductions are altering the local education aid and the library aid formula for reductions of $93.7 million and $4 million, respectively, and the phasing out of the Distinguished Scholarship Program. There is a rededication of $94.5 million in transfer tax revenues to the General Fund.

Among the fees are an increase in the hospital assessments for Medicaid, raising $201 million, and a "bad driver" fee, raising $5 million. Additionally, the counties and Baltimore City will reimburse the State for 90% of the cost of administering property assessments raising $34.8 million.

The federal Recovery Act funds in the proposed budget are $4.5 million, down from $1.2 billion in the fiscal 2011 budget. Highlights in the proposed budget include:

- State aid for elementary and secondary education totals $5.7 billion, including $4.9 billion in direct aid to the local boards of education and $849 million in State pension costs for teachers;
- Nonpublic school textbook aid is $4.4 million;
- Medicaid expenditures increase from $5.9 billion to $6.9 billion of which $225 million is contingent upon an increase in hospital assessments;
- State universities and colleges receive $4.9 billion, a $118.6 million increase, including $9 million in funds to limit in-state undergraduate tuition increases to 3%;
- The Chesapeake Bay Trust Fund receives $25 million, a 25% increase over fiscal 2011, while the cover crop program receives $16.2 million; and
- The Maryland Stem Cell Research Fund receives $12.4 million; and the Maryland Biotechnology Investment Tax Credit Reserve Fund is allowed $8 million with an additional $3.8 million for the Maryland Biotech Center.

Capital Budget Bill

The Governor's $1.4 billion capital budget includes a net borrowing of $925 million in general obligation bonds. The budget does not consist of one bill, but of $935.6 billion in general obligation bond funds in the Maryland Consolidated Capital Bond Loan of 2011 (SB 86/HB 71), while the remainder consists of funds in the Budget Bill (SB 86/HB 70) and academic revenue bonds. These figures exclude most transportation projects. Among the highlights are:

- Public school construction receives $262.4 million, including $9.7 million in recycled funds, plus an additional $15.9 million for the Qualified Zone Academy Bond Program;
- State universities and colleges receive $124.3 million in general obligation bonds, including $41.5 million for a new law school at the University of Baltimore, while community colleges get $60.8 million;
- Program Open Space is scheduled to receive $33 million in State and federal funds. Rural Legacy is allocated $14.1 million in general obligation bonds. The Agricultural Land Preservation Program is scheduled to receive $8.6 million and Community

Parks and Playgrounds is allocated $2.5 million in general obligation bonds;

- The Community Health Facilities Grant Program, which provides capital funds for mental health, developmental disabilities, and substance abuse community centers, receives $3.6 million in general obligation bonds;
- The Federally Qualified Health Centers Grant Program receives $2 million in general obligation bonds; and
- The Budget Bill, and the capital budget bill provide funding or authorization in general funds, special funds, general obligation bonds, and revenue bonds for environmental projects including allocations for the Enhanced Nutrient Removal Program ($326.8 million with $146.8 million in general obligation bonds and $180 million in revenue bonds), water quality programs ($154.5 million in State and federal funds), and the Biological Nutrient Removal Program ($30.9 million in general obligation bonds).

Under the Maryland Constitution a bond bill may not pass until the Budget Bill has passed. The General Assembly may increase the authorization for a project or add a project in a bond bill, as well as delete or reduce projects.

Budget Reconciliation and Financing Act (BRFA)

A balanced budget is contingent upon changing the allocation of revenue, reducing required expenditures, and transferring money from special funds to the General Fund, which is done in the Budget Reconciliation and Financing Act of 2011 (BRFA), SB 87/HB 72. Among the changes in the BRFA are:

- increasing the monthly supervisory fee for parolees from $25 to $50;
- requiring the counties to reimburse the Department of Juvenile Services or the Department of Human Resources for the education of a nondisabled child under certain circumstances;
- requiring postsecondary educational institutions to pay an application fee to the Maryland Higher Education Commission for approval of an academic program;
- reducing the mandated State aid for elementary and secondary education;
- increasing the Medicaid hospital assessment;
- permitting the State to establish separate health insurance benefit options for retirees that differ from those offered to employees; and
- establishing a fee on drivers with more than five points including a $500 annual fee for three years on drivers convicted of drunk or drugged driving.

Among the transfers to the General Fund authorized in the BRFA are from the Circuit Court Real Property Records Improvement Fund ($10 million); from the State Insurance Trust Fund ($2 million); and from the Bay Restoration Fund ($90 million). The BRFA also requires each county and Baltimore City to reimburse the State 90% of the costs of the Department of Assessments and Taxation for real property and business personal property valuation, as well as 90% of certain information technology costs.

State employee and teacher pension system changes proposed in the BRFA include:

- for existing employees and teachers for FY 2012:
  - a one-time irrevocable choice to either continue to pay 5% of salary with an adjusted benefit reduction to a 1.5% per year multiplier for service after July 1, 2011; or
  - to increase the contribution rate to 7% and maintain the current 1.8% per year multiplier;
- for new employees and teachers as of July 1, 2011:
  - the employee contribution rate increases from 5 to 7%;
  - the multiplier decreases from 1.8% to 1.5%;
  - the number of years used to calculate the average final compensation increases from three to five years;
  - the number of years required to vest increases from five to ten years;
  - the normal service retirement age increases to 65 from 62, although members at any age will still be able to retire with full benefits after 30 years of service;
  - the early retirement age increases to 60 from 55; and
  - the cost-of-living adjustment for retirees in the new system is capped at 1% in years in which pension fund investments do not earn the investment target.