



# The Legislative Wrap-Up

Library and Information Services, Department of Legislative Services

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## GREEN BAG APPOINTMENTS

Gubernatorial appointments for 2011 were submitted to the Senate and House on Friday, February 18 (the official deadline, the 40<sup>th</sup> calendar day of the 2011 session, is Sunday, February 20). In the Senate, the Governor's Appointments Secretary delivered the list of gubernatorial appointments in the official Green Bag of Maryland. The green leather bag, embossed with the Maryland Great Seal, is modeled on the green bags used by English barristers of old to convey official documents. With the exception of this annual presentation ceremony, the Green Bag resides in the State Archives. Article II, Section 13 of the Maryland Constitution requires the Governor to submit nominations of civil officers to the Senate within 40 days of the beginning of each regular session, although the actual Green Bag is not mentioned.

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## COURTS AND CIVIL PROCEEDINGS

[SB 139/HB 402](#) reduce the time from 2 years to 12 months that the parties in an action for divorce based on the grounds of separation must have lived separate and apart without cohabitation and without interruption before filing for absolute divorce. The legislation also reduces the separation period from 12 months to 6 months for an absolute divorce based on *voluntary* separation.

Late this week, a Senate committee gave a favorable with amendments vote to [SB 116](#), the Religious Freedom and Civil Marriage Protection Act. The committee's votes are listed on the Maryland General Assembly website and the bill is on the Senate's floor agenda for Tuesday, February 22. Identical House bills ([HB 55](#) and [HB 175](#)) are scheduled for House committee hearings next Friday.

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## CRIMES, CORRECTIONS, AND PUBLIC SAFETY

### Crimes

Justice's Law ([SB 295/HB 968](#)) expands the list of persons who can be convicted of first degree child abuse

to include a family member or household member. The maximum penalties for first degree child abuse resulting in death of the victim and a subsequent conviction for child abuse resulting in death of the victim increase from 30 years imprisonment to imprisonment for life.

[SB 237/HB 359](#) create a new felony that occurs when a person age 18 or older sells a controlled dangerous substance to a minor and the minor dies as a direct result of the use or ingestion of the substance. The maximum sentence for the crime is 20 years imprisonment.

Human trafficking bills also received testimony this week:

- [SB 247/HB 418](#) expand the crime of human trafficking by prohibiting a person from knowingly recruiting, harboring, transporting, providing, or obtaining a person for labor or services and subjecting the person to involuntary servitude or debt bondage through force, fraud, or coercion. State or local law enforcement is authorized to seize property in connection with a violation of the human trafficking law. The Anti-Human Trafficking Fund is established with proceeds from the sale of the property to provide funding for victims and law enforcement units and organizations that combat human trafficking;
- [SB 299/HB 345](#) add human trafficking to the list of crimes for which evidence may be gathered during a criminal investigation through the interception of oral, wire, or electronic communications; and
- [SB 327/HB 266](#) authorize a court to order a defendant convicted of human trafficking to pay restitution to a victim for certain expenses incurred by the victim. They also authorize a person convicted of prostitution to file a petition to vacate the judgment if the person's involvement in prostitution was the result of having been a victim of human trafficking.

### *Immigration Status and Law Enforcement*

A House committee heard testimony on legislation that:

- requires the Division of Correction and Division of Parole and Probation is required under to forward

information about prisoners' immigration status gleaned from case records and presentence investigation reports to the U.S. Immigration and Customs Enforcement Agency ([HB 239](#));

- requires each law enforcement agency in the State to enter into a memorandum of understanding with the federal government concerning the enforcement of federal immigration laws and to provide appropriate training to each law enforcement officer who will be performing immigration enforcement ([HB 276](#));
- requires a court or District Court commissioner to ask a criminal defendant to provide information, including documentation, relating to the defendant's legal status in the United States. The information may be considered in deciding whether to authorize the defendant's pretrial release on bail or personal recognizance ([HB 272](#)); and
- prohibits a judge or District Court commissioner from authorizing the pretrial release of defendants who cannot prove they are legally in the U.S. ([HB 342](#)).

#### *Juvenile Services*

Under [SB 787/HB 511](#), the Department of Juvenile Services (DJS) must provide females with a range and quality of services and programs substantially equivalent to those offered to males and submit a report on the manner in which the department will use existing resources to accomplish this in fiscal 2013 and beyond.

In 2004 a Juvenile Services Education Program was established within the Maryland State Department of Education (MSDE) to provide educational services in all residential facilities of DJS. [SB 62](#) authorizes MSDE and DJS to share information and court records of juveniles receiving MSDE educational services in a DJS facility to ensure the appropriate delivery of services for the Program.

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## **ECONOMIC AND BUSINESS ISSUES**

### *Invest Maryland Program*

Governor O'Malley testified before a committee this week in support of a new State-supported venture capital program. [SB 180/HB 173](#), Administration bills, establish the Maryland Venture Capital Authority to solicit cash from insurance companies in exchange for tax credits gained through a competitive bidding process. The cash then goes to an Enterprise Fund for distribution among the Enterprise Fund, venture capital firms, and the Small Business Development Financing Authority. Along with venture firms, certain businesses with principal

operations in the State also qualify for investments. The bill authorizes \$142 million in credits.

### *Public Utilities*

Public utility bills this session include:

- [SB 304](#) that creates a Maryland Renewable Energy Fund to promote energy efficiency and renewable energy generation technology, partly funded by a surcharge on residential retail electricity customers exceeding a certain amount of electricity consumption;
- [SB 244/HB 597](#) that require the Public Service Commission (PSC) to educate consumers on competitive electric supply options through a dedicated page on their website and public service announcements;
- [SB 271/HB 275](#) that add a closed conduit hydroelectric generating facility to the list of facilities eligible for net energy metering; and
- [SB 314](#) that prohibits the PSC from exempting wind-powered electricity generating stations, not including those for on-site consumption, from the Certificate of Public Convenience and Necessity requirement.

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## **EDUCATION**

### *Financial Literacy - Graduation Requirement*

Bills concentrating on financial literacy as a graduation requirement for Maryland high school students received hearings this week. [SB 262/HB 127](#) and the identical [HB 224](#) require the State Board of Education to develop curriculum content for a semester-long course in financial literacy. Currently, development of curriculum content is done only at the local level and approved by the State. Each local board of education must implement the curriculum in every high school under the board's jurisdiction, and a student must complete the course in order to graduate from high school.

### *Tuition Charges - Maryland High School Students*

A bill ([SB 167](#)) to exempt individuals who attended and graduated from Maryland high schools from paying nonresident tuition at public institutions of higher education in Maryland gathered testimony this week. To qualify for an exemption from paying nonresident tuition, an individual must:

- have attended a secondary school in the State for at least two years;

- have graduated from a high school in the State or received the equivalent of a high school diploma in the State;
- register as an entering student at a public institution of higher education in Maryland no earlier than the fall 2011 semester;
- provide documentation that the individual or the individual's parent or guardian has had Maryland income tax withheld during the year prior to high school graduation; and
- make application to attend the institution within three years of high school graduation.

HB 253 of 2003 would have extended in-state tuition benefits to undocumented and other immigrants who attended and graduated from Maryland high schools. The bill passed the General Assembly but was vetoed.

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## ELECTIONS AND ETHICS

Bills allowing the use of campaign funds by a candidate or elected official for travel, lodging, meals, and registration expenses to attend meetings or conferences and other activities focused on issues pertinent to the office sought or held are moving through the process ([SB 119/HB 122](#)).

A campaign finance law loophole is closed by [SB 339](#) and [HB 322](#) to make individual owners of a limited liability corporation (LLC) and other business entities with common ownership or control count as single entities for contribution limits. Currently, the individual and corporation limit is \$4,000 per candidate and \$10,000 to all candidates during the four-year election cycle. The bills address the unequal treatment of corporations and LLCs, since LLCs with common ownership are treated as unrelated entities for the purpose of campaign contribution limits, while corporate subsidiaries are treated as functionally part of one corporation.

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## ENVIRONMENT, NATURAL RESOURCES, AND AGRICULTURE

### *Oysters and Fishing*

[SB 159](#), discussed on the Senate floor this week, and the companion, [HB 273](#), heard by a House committee, revoke a license to catch oysters for anyone caught taking oysters unlawfully and create a citation, hearing, license revocation, and appeals process.

### *Septic Systems*

Reducing the amount of nitrogen in the Chesapeake Bay is the goal of several bills before the legislature. [SB 160/HB 177](#) prohibit the installation of a septic system in the State in the watersheds of the Chesapeake and Atlantic Coastal Bays to service a newly constructed building unless the system utilizes nitrogen removal technology. [SB 846/HB 1107](#) also restrict the installation of septic systems. [SB 372/HB 347](#) require the Department of the Environment to evaluate and rank nitrogen removal technologies for septic systems to advise local governments and citizens of the State of approved technologies that qualify for funding under the Bay Restoration Fund.

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## FISCAL MATTERS

### *Military Retirement*

[SB 190/HB 774](#) expand the existing military retirement income tax subtraction modification by increasing from \$5,000 to \$10,000 the maximum amount of retirement income that can be excluded from the State income tax. The bill takes effect July 1, 2013, and applies to tax years 2013 and beyond.

### *Electric Vehicle Recharging Equipment*

[SB 177/HB 163](#) create a tax credit for 20% of the cost of qualifying electric vehicle recharging equipment. The value of the credit may not exceed the lesser of \$400 or the State income tax imposed in the tax year. The Maryland Energy Administration will administer the program and may award a maximum of \$400,000 in credits in tax year 2011, \$500,000 in tax year 2012, and \$600,000 in tax year 2013. To offset the reduction of revenues from the credit, the bill requires a transfer of these amounts from the Maryland Strategic Energy Investment Fund to the general fund in the appropriate fiscal years. With an effective date of July 1, 2011, the bill applies to tax year 2011 through 2013.

On the same subject, the Senate passed legislation ([SB 179](#)) to start a pilot program under the PSC for charging electric vehicles during off-peak hours. [HB 164](#) is the crossfiled measure.

### *Recordation of Appeals*

The Senate passed [SB 69](#) to authorize a homeowner to record a property assessment appeal hearing at the property owner's expense. The Department of Assessments and Taxation is not required to provide the recording equipment. The companion bill is [HB 141](#).

## GAMING, RACING, AND SPORTS

### *Slot Machines - Eligible War Veterans' Organizations*

Maryland law authorizes certain nonprofit organizations in eight Eastern Shore counties to license up to five slot machines per organization. At least one-half of the proceeds must go to charity with the remainder to go to the organization. Under [SB 4/HB 735](#), all counties may authorize bona fide war veterans' organizations that have been located in the State for at least five years to license up to five slot machines.

### *Video Lottery Operation Licensees - Noninterference*

Recently, a Senate committee heard [SB 373](#) concerned with ensuring noninterference of one video lottery operation licensee with another. The bill prohibits a video lottery operation licensee from directly or indirectly interfering with, hindering, obstructing, impeding, or taking any action to delay the implementation or establishment of a video lottery facility by any other licensee or applicant. [HB 868](#) is an identical measure.

individuals in accessing public programs, premium tax credits, and cost-sharing reductions.

Under the federal ACA, enacted in March 2010, each state must establish a health benefit exchange that facilitates the individual purchase of QHPs. Initial structure and governance must be established by March 23, 2012. If a state fails to act, the federal government will step in to establish an exchange by January 1, 2013.

### *Health Insurance - Conformity with Federal Law*

[SB 183/HB 170](#) alter State insurance law to conform to federal requirements under the ACA and allow the Maryland Insurance Commissioner to enforce such requirements. The bills also correct a portion of Maryland's Mental Health Parity Law to meet the requirements of the federal Mental Health Parity and Addiction Equity Act of 2008. The legislation applies to all group and individual health benefit plans for plan or policy years that begin on or after July 1, 2011; its effective date is July 1, 2011. The bills require insurers, nonprofit health service plans, and health maintenance organizations to follow specific provisions of ACA currently in effect, including:

- coverage of children up to age 26;
- preexisting condition exclusions;
- policy rescissions;
- wellness programs;
- lifetime limits;
- annual limits for essential benefits;
- waiting periods;
- designation of primary care providers;
- access to obstetrical and gynecological services;
- emergency services;
- summary of benefits and coverage explanation;
- minimum loss ratio requirements and premium rebates; and
- disclosure of information.

### *Decabrominated Diphenyl Ether*

[SB 221](#) was also heard this week in the Senate that modifies the current total phase-out of decabrominated diphenyl ether (decaBDE) in specified products to allow trace amounts of up to 0.1% decaBDE by mass. The crossfiled measure is [HB 54](#).

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## HEALTH CARE AND HEALTH INSURANCE

A number of Administration bills were heard in Senate and House committees this week. Some of these measures relate to the enhancement of health entities in the State and/or to the implementation of the federal Patient Protection and Affordable Care Act (ACA) provisions:

### *Maryland Health Quality and Cost Council*

[SB 175/HB 165](#) codify the Maryland Health Quality and Cost Council, which was created by Executive Order 01.01.2007.24 in October 2007 to coordinate best practices of the private and public sector to improve health care in the State. The council consists of the Secretary of Health and Mental Hygiene and 13 members appointed by the Governor, at least 10 of whom must represent health insurance carriers, employers, health care providers, consumers, and experts in health care quality and cost containment.

### *Maryland Health Benefit Exchange*

[SB 182/HB 166](#) establish the governance, structure, and funding of the Maryland Health Benefit Exchange, an independent unit of government designed to reduce the number of uninsured; facilitate the purchase and sale of qualified health plans (QHPs) in the individual market; assist qualified employers in facilitating the enrollment of their employees in QHPs in the small group market and in accessing small business tax credits; and assist

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## REAL PROPERTY, ESTATES, AND TRUSTS

Bills that aim to help homeowners in foreclosure discover the identity of their lender and the lender's contact information include:

- [SB 205/HB 366](#) that require an agent of a secured party to sign a notice of intent to foreclose (NOI) a mortgage or deed of trust on residential property and affirm under the penalty of perjury that its contents are true to the best of the agent's knowledge, information, and belief;
- [SB 206/HB 691](#) that define "secured party" as the owner of a debt instrument secured by a mortgage or deed of trust on residential property. "Secured party" excludes the Mortgage Electronic Registration Systems, Inc., or other similar registries or databases that track mortgage loan servicers or owners; and
- [SB 450/HB 412](#) that prohibit a court from accepting a lost note affidavit in lieu of a copy of the debt instrument in a foreclosure action, unless the affidavit contains specific information including a description of the good faith efforts made to produce a copy of the debt instrument.

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## TRANSPORTATION

### *Texting While Driving*

Several bills seek to strengthen the prohibition against using hand-held cell phones while driving. Hearings were conducted this week on three of them:

- [HB 196](#) prohibits a driver from reading any text message while in a travel lane of a roadway, regardless of whether the car is in motion. Current law forbids the driver to write or send a text message while the vehicle is in motion, but does not prohibit reading a message;
- [HB 221](#) continues the prohibition against a person under age 18 from using any wireless communication device, hand-held or hands-free, while driving, and further defines the prohibition to include writing or sending a text message while in the travel portion of a roadway. Exceptions are made for calling 9-1-1 or using a Global Positioning System; and
- [HB 222](#) makes any use of a cell phone by a minor, or the use of a hand-held phone by an adult, a primary offense. Currently the prohibition against using wireless communications while driving is a secondary offense, enforceable only if an officer witnesses a primary offense and the driver is using a cell phone at the same time. Current law applies the prohibition to drivers of vehicles in motion, but the new law applies it to the driver of a vehicle that is in a travel lane of a roadway.

In other action, [SB 396](#) and its crossfile, [HB 779](#), add a definition of the word "operating" so that the crime of manslaughter by vehicle can take into account acts involving loading, unloading, or securing a load on a vehicle or attaching a trailer hitch or luggage rack to a vehicle.

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## NEXT WEEK

The Senate and House are charged by the Maryland Constitution to elect the State Treasurer by joint ballot during the first session of the four-year term, a majority of the combined votes being necessary to win. Maryland is one of four states whose legislature selects the State Treasurer. The current Treasurer, Nancy K. Kopp, was elected by the legislature in 2002 when Richard N. Dixon, first elected to the office in 1996, resigned. Both Kopp and Dixon were former members of the House of Delegates. The General Assembly re-elected Treasurer Kopp in 2003 and in 2007.

The election process has two steps. First, the Special Joint Committee to Select the State Treasurer will interview the applicants for the Office at 4:30 p.m., Wednesday, February 23, in Room 111, Legislative Services Building, in Annapolis. The committee is chaired by Senator Norman R. Stone, Jr. and Delegate Adrienne A. Jones. Secondly, at the Thursday morning floor session on the following day, February 24, the General Assembly will elect the Treasurer by joint ballot.