



# The Legislative Wrap-Up

Library and Information Services, Department of Legislative Services

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## 45<sup>th</sup> DAY

On Friday, February 25, the 2011 General Assembly passed the halfway point in its 90-day session. Adjournment *sine die* is April 11 at midnight. At the halfway point, 2,234 bills and 16 resolutions are in the legislative pipeline. There are 937 Senate bills and 6 Senate resolutions, along with 1,297 House bills and 10 House resolutions.

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### ELECTION OF STATE TREASURER

On February 23, by joint ballot, the General Assembly elected Nancy K. Kopp to a third four-year term as Maryland's State Treasurer. Treasurer Kopp was first elected to the post in February 2002 to fill the last year of the term of then Treasurer, Richard N. Dixon, who had resigned. She was then reelected to full terms in 2003 and 2007. Prior to her election as Treasurer, Kopp had served for 28 years (1975-2002) as a distinguished member of the House of Delegates representing District 16, Montgomery County.

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### SPEAKER'S SOCIETY PRESENTATIONS

In conjunction with the Speaker's Society, which was established in 1995 for current and former delegates to meet together annually, three awards were created to recognize Marylanders of merit. This week, the recipients of the 2011 awards were recognized.

The Speaker's Medallion is given in memory of Thomas Kennedy, a former member of the House, for his courageous stand on principle. Through Kennedy's efforts, in 1826 the General Assembly extended the same rights and privileges enjoyed by Christians to people of the Jewish faith. The 2011 award went to Ronald R. Peterson, President of the Johns Hopkins Hospital and Health System, and Dr. Edward D. Miller, Chief Executive Officer of Johns Hopkins Medicine. The recipients have worked together for 15 years at Johns Hopkins to further the successful delivery of outstanding health care in Maryland.

The Casper R. Taylor, Jr., Founders Award is presented to a sitting delegate to honor steadfast commitment to

public service and to the integrity of the House. The 2011 award went to Delegate Rudolph C. Cane, District 37A, Dorchester and Wicomico Counties, who has been a member of the House of Delegates since 1999. Delegate Cane is a member of the Environmental Matters Committee, House Chair of the Joint Subcommittee on Program Open Space/Agricultural Land Preservation, Vice Chair of the House Rules and Executive Nominations Committee, and a member of the Joint Committee on Legislative Ethics.

The Thomas Kennedy Award is given to a former House member for personal courage and dedication to the principles of liberty and freedom. This year's award went to U.S. Congressman Elijah Cummings. Cummings began his career of public service in the Maryland House of Delegates, where he served for 16 years and became the first African American in Maryland history to be named Speaker Pro Tem. Since 1996, Representative Cummings has represented Maryland's 7th Congressional District in the U.S. House of Representatives.

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### COURTS AND CIVIL PROCEEDINGS

#### *Marriage*

The Senate passed [SB 116](#), amended to be the Civil Marriage Protection Act. The bill specifies that only a marriage between two individuals who are not otherwise prohibited from marrying is valid in Maryland. As amended, the legislation prohibits requiring religious entities to provide services, accommodations, advantages, facilities, goods, or privileges to an individual if the request to do so is related to actions that violate the entities' religious beliefs; and prohibits requiring fraternal benefit societies that are operated, supervised, or controlled by a religious organization to admit an individual as a member or to provide insurance benefits to an individual if that would violate the societies' religious beliefs.

A House committee held a hearing late this week on same-sex marriage legislation introduced in the House, including the Religious Freedom and Civil Marriage Protection Act ([HB 55](#) and [HB 175](#)) that is similar to [SB](#)

116 as it was introduced, and Maryland's Marriage Protection Act (HB 963) that amends the Maryland Constitution to establish that a marriage between a man and a woman is the only domestic legal union valid or recognized in this State.

#### *Divorce - Ownership of a Pet*

SB 814/HB 770 authorize a court to assign ownership of a pet if there is an ownership dispute during the granting of an annulment or a divorce. The court decree may grant sole ownership of the pet to one party; sole ownership of the pet to one party with visitation rights granted to the other party on a schedule that the court determines; or ownership of the pet to both parties with custody to be shared by both parties on a schedule that the court determines. The court may not order either party to make any payment for pet maintenance or other expenses to the other party.

#### *Circuit Court Judges*

Constitutional amendments were introduced and have failed this session that would have repealed current law that requires a circuit court judge to face a contested election within two years of gubernatorial appointment and every 15 years thereafter and would have mandated an uncontested "retention" election after appointment by the governor and every 10 years thereafter, mirroring the current requirements for appellate court judges (HB 309 and HB 375).

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## **CRIMES, CORRECTIONS, AND PUBLIC SAFETY**

### *Crimes*

The House passed HB 345, which adds 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.

Under HB 606, the use or possession of less than 28.5 grams (approximately 1 ounce) of marijuana is classified as a civil offense, subject to a fine of up to \$100. Law enforcement officers must issue a citation if they have probable cause to believe that the offense has been or is being committed. Currently, use or possession of marijuana is a misdemeanor, with a maximum criminal penalty of a year in jail and a \$1,000 fine. Current criminal penalties still apply to the use or possession of 28.5 grams or more of marijuana.

### *Animal Welfare*

Bills that promote animal welfare include:

- SB 425/HB 294 that make it a misdemeanor to inflict unnecessary suffering or pain on an animal

through the use of a rifle, handgun, or certain other weapons, with a maximum penalty of one year in jail and a \$5,000 fine. The bills also increase the maximum jail time for abuse or neglect of an animal from 90 days to six months and increase the maximum fine from \$1,000 to \$2,500;

- SB 115/HB 227 that authorize a court, as a condition of sentencing, to prohibit a defendant convicted of aggravated cruelty to an animal or abuse or neglect of an animal from owning, possessing, or residing with an animal for a specified period of time;
- SB 747/HB 407 that allow an interim, temporary or final protection order to order a respondent to remain away from a certain pet or service animal, to refrain from cruelty or aggravated cruelty toward the pet or service animal, or in certain circumstances, to give the pet or service animal to a certain person; and
- SB 639/HB 339 that establish a Task Force on the Establishment of a Statewide Spay/Neuter Fund to review data on successful local spay/neuter programs and the unmet need for these services and make recommendations regarding the establishment of a spay/neuter fund that best meets the needs of the State.

### *Parole and Probation*

SB 583/HB 964 establish a Recidivism Reduction Pilot Program in the Division of Parole and Probation (DPP) that results in at least 50% of supervised individuals being supervised in accordance with "evidence-based practices." The goal is to reduce the offender's potential for recidivism and increase the offender's ability to establish and maintain a more productive lifestyle.

SB 801/HB 919 require the DPP to implement by January 1, 2012, a Swift and Certain Sanctions Pilot Program involving a system of graduated sanctions for violations of conditions of community supervision and positive reinforcements for compliance with conditions of supervision.

### *Failed Legislation*

Legislation that received an unfavorable committee vote recently would have:

- designated several chemical compounds known as synthetic cannabinoids as Schedule I controlled dangerous substances (HB 189);
- made it lawful for a person to intercept an oral communication made by a law enforcement officer in a public place and in the course of the officer's regular duty and would have authorized a law enforcement officer to intercept an oral

communication in the course of the officer's regular duty without the current Maryland Wiretap Act requirement of informing all other parties to the communication of the interception at the beginning of the communication ([HB 45](#)); and

- made a report to a "Crime Stoppers" organization that alleges criminal activity, or evidence of such a report, inadmissible as evidence in a court proceeding and prohibited a law enforcement agency from disclosing the identity of an individual who reported information concerning alleged criminal activity to a "Crime Stoppers" organization under a promise of anonymity ([HB 419](#)).

Failed measures also included bills that addressed the immigration status of prisoners ([HB 239](#)); enforcement of federal immigration laws by Maryland law enforcement agencies ([HB 276](#)); and the use of the legal status of a defendant as a basis for authorization of pretrial release ([HB 272](#) and [HB 342](#)).

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## ECONOMIC AND BUSINESS ISSUES

The Maryland Electricity Service Quality and Reliability Act ([SB 692/HB 391](#)) establishes a State goal that electric companies rank in the top quartile nationally with regard to service quality and reliability. Additionally, the Administration measures require the Public Service Commission (PSC) to adopt regulations implementing standards for electric companies concerning service interruption, downed wire repair, service quality, vegetation management, and annual reliability reporting. The bills further require the PSC to evaluate compliance among electric companies and authorize the PSC to impose civil penalties for violations of their outstanding directions, rulings, orders, or regulations.

Also on the topic of utility regulation, [HB 596](#) requires each distribution utility (electric, gas, or electric and gas company) to provide competitive suppliers with certain customer account information upon request. Distribution utilities must notify customers and provide an opt-out option, and competitive suppliers may only use customer information for marketing their services. A similar bill, [SB 704](#), will be heard on March 8.

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## ELECTIONS AND ETHICS

[HB 257](#) has moved to the opposite chamber to allow an individual under the age of 18 (current law says under the age of 13) who accompanies a voter to have access to the *voting room* at a polling place, subject to specified requirements, including that the individual is not eligible

to vote in that election. The bill also specifies that an individual over the age of 17 (current law says over the age of 12) may not accompany a voter into a *voting booth* unless the individual is providing specified assistance to a voter. The companion bill, [SB 225](#), has received preliminary approval in the Senate.

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## ENVIRONMENT, NATURAL RESOURCES, AND AGRICULTURE

### *Septic Systems*

The House passed [HB 57](#), which expands the uses of the Septics Account of the Bay Restoration Fund to include providing grants or loans for connecting a property served by a septic system to an existing municipal wastewater facility that is achieving enhanced nutrient removal level treatment. The crossfiled bill is [SB 539](#), which is scheduled for a hearing in March.

### *Oysters and Fishing*

[SB 159](#) has moved to the House, and the companion bill, [HB 273](#), was heard recently by a House committee. The bills revoke a license to catch oysters for anyone caught taking oysters unlawfully and create a citation, hearing, license revocation, and appeals process.

[SB 188](#) has also moved to the House. As amended, the bill authorizes the Department of Natural Resources to issue an annual fishing license requirement exemption to a government entity or a nonprofit organization to take individuals with physical or mental disabilities who are serving or have served in the Armed Forces fishing in the tidal or nontidal waters of the State.

### *Natural Gas Exploration in the Marcellus Shale Formation*

Testimony was heard this week on legislation that addresses concerns about the impact of the hydraulic fracturing process proposed for natural gas exploration and production in the Marcellus Shale formation that underlies parts of Western Maryland. [HB 411](#) requires the Department of the Environment to submit regulations related to the environmental impact of natural gas exploration and production in the Marcellus Shale formation by December 31, 2011. [HB 852](#) more specifically identifies permitting, monitoring, and coordination requirements. A Senate committee will take testimony on the companion measures, [SB 422](#) and [SB 634](#), next week.

## FISCAL MATTERS

### *Alcohol Taxes*

**SB 168/HB 121**, the Lorraine Sheehan Health and Community Services Act of 2011, increase the State tax rates for alcoholic beverages from \$1.50 to \$10.03 per gallon for distilled spirits, from 40 cents to \$2.96 per gallon for wine, and from 9 cents to \$1.16 per gallon for beer. The bills also establish six nonlapsing special funds and specify the distribution of alcoholic beverages tax revenues to the various special funds to be used for health care services and tobacco cessation efforts. The bills take effect July 1, 2011. Another measure, **HB 1213**, increases the taxes by the same amount but creates no special funds and does not change the current allocation of the revenue.

### *Combined Reporting - Corporations*

Under **SB 305/HB 731**, affiliated corporations are required to compute Maryland taxable income using “combined reporting.” The Comptroller is required to adopt regulations consistent with the principles for determining the existence of a unitary business adopted by the multistate Tax Commission. Affiliated corporations are required to file “combined income tax returns,” except as provided in the regulations. A corporation that is a member of a combined group must compute its Maryland taxable income using the combined reporting method prescribed in the bill. The bill takes effect July 1, 2011, and applies to tax year 2012 and beyond.

### *Transportation Trust Fund*

A number of bills are before the General Assembly on the use and disposition of the Transportation Trust Fund (TTF), which is a nonlapsing special fund that provides transportation funding. It consists of tax and fee revenues, operating revenues, bond proceeds, and fund transfers. The Maryland Department of Transportation issues bonds backed by TTF revenues and invests the TTF fund balance to generate investment income. The Maryland Transit Administration, Motor Vehicle Administration, Maryland Port Administration, and Maryland Aviation Administration generate operating revenues that cover a portion of their operating expenditures.

In the past, revenues have been transferred from TTF to the general fund, and the general fund has subsequently repaid TTF. In recent years, a significant portion of the local share of highway user revenue has been diverted to the State’s general fund to help balance the State’s budget. As well, legislation altered the distribution of highway user revenue, further reducing the share of revenues distributed to the counties and municipalities,

while increasing the portion distributed to the general fund.

Before a committee this week, **HB 518** proposes to amend the Maryland Constitution to include TTF and establish rules for its operation and funding. The bill places constitutional restrictions on transfers from TTF and requires TTF funds to be used only to pay the principal of and interest on transportation bonds and for any lawful purpose related to construction and maintenance of an adequate highway system or any other transportation-related purpose.

No part of TTF may revert or be credited to the general fund or to a special fund. Funds may be transferred upon an invasion or a major catastrophe and must be repaid within five years. There are four additional proposed constitutional amendments dealing with restrictions on the use of TTF that will be before committees in early March (**HB 591**, **SB 677**, and **SB 714/HB 1001**).

### *Taxes*

Legislation moving through the committee stage of the legislative process this week addresses:

- decreasing the sales and use tax rate from 6% to 5%, with an effective date of July 1, 2013 (**HB 465**). **SB 675** makes the same decrease, effective July 1, 2011;
- exempting the sale of electricity generated by solar energy equipment for use in residential property or for supply to the electric grid from the State sales and use tax (**SB 398/HB 502**);
- requiring county and municipal governments to establish a semiannual payment schedule for State, county, municipal, and special taxing district property taxes for business property (**HB 463**); and
- reducing the percentage used to determine the Homestead Property Tax Credit for State property tax purposes from 10% to 5%, thereby limiting annual State property tax assessment increases on owner-occupied residential properties to 5% (**HB 576**). The bill applies to all taxable years beginning after June 30, 2012.

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## GAMING, RACING, AND SPORTS

### *Video Lottery Operation Licensees - Noninterference*

The Senate passed an amended **SB 373** this week. The bill is aimed at ensuring noninterference by one video lottery operation licensee with another by prohibiting 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.

The State Lottery Commission must adopt certain regulations, to the fullest extent allowed by the First Amendment of the Constitution of the United States, to implement the bill. As amended, the Commission may also adopt regulations that allow it to impose sanctions and penalties if a licensee knowingly violates this law. A companion bill, [HB 868](#), will be heard in March.

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## **HEALTH CARE AND HEALTH INSURANCE**

### *Bisphenol-A*

Several bills relating to prohibition of bisphenol-A in certain products include:

- [SB 151](#) that prohibits a person, on or after January 1, 2013, from manufacturing, distributing, or knowingly selling a can, jar, or other container containing bisphenol-A (BPA) if the container holds a liquid, food, or beverage intended primarily for consumption by a child younger than age four. A manufacturer must instead use the least toxic alternative and may not replace BPA with specified carcinogens or reproductive toxicants; and
- [HB 4](#) that prohibits a person from manufacturing, distributing, or knowingly selling two types of items on or after January 1, 2012: a sports water bottle containing BPA; and a can, jar, or other container containing BPA at a level of 0.5 parts per billion, if the container contains a liquid, food, or beverage intended primarily for consumption by a child younger than age four. A manufacturer must instead use the least toxic alternative and may not replace BPA with specified carcinogens or reproductive toxicants.

### *Health Insurance*

[HB 15](#) (failed) would have established that a person has the right to choose to participate in a private health insurance system or plan and that, except as required by a court, a person has the right to pay for lawful medical services without interference. The bill was withdrawn.

### *DecaDBE*

[SB 221](#), dealing with a modification to the phase-out provisions concerning decabrominated diphenyl ether (DecaDBE) in various products, has been given approval in the Senate. Amendments include an exemption for certain aircraft from the application of a prohibition on the manufacture, lease, sale, or distribution for sale or lease of certain products that contain DecaDBE. The bill's provisions allow for trace amounts of DecaDBE in

certain products (0.1%) but do not make any changes to the phase-out dates prescribed in current law.

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## **TRANSPORTATION**

### *Manslaughter by Vehicle or Vessel*

[HB 363](#), heard this week by a committee, creates a new misdemeanor of criminally negligent manslaughter by vehicle or vessel for criminally negligent operators of cars, trains, or boats who cause the death of another person. Criminally negligent driving is defined as acting in a way that a reasonable person would realize creates a substantial risk of another person's death. A violator may receive a sentence of up to three years in prison and/or a fine of up to \$5,000.

Under current law, drivers who cause death may be charged with a traffic violation or the felony of gross negligence. The bill, if passed, permits an intermediate penalty. Similar versions of the bill were introduced in both the House and Senate in previous sessions, dating back to 2006, but none of the measures passed.