



The Legislative Wrap-Up

Library and Information Services, Department of Legislative Services

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BILL INTRODUCTIONS

With bill introduction deadlines slated for February 3 in the Senate and February 10 in the House, the number of bills now in the respective chamber hoppers has increased. There are 565 Senate bills to date and 576 House bills. Between 2,600 and 3,000 proposals are considered each session.

ADMINISTRATION INITIATIVES

Administration bills introduced this week in the House of Delegates ([HB 438](#) through [HB 446](#)) are identical to the cross-filed or companion Senate bills introduced in that body last week.

An additional Administration measure that concerns public-private partnerships creates a State policy and process for partnership infrastructure projects. The aim of [SB 358](#) is to improve the State's definition of a public-private partnership (P3), strengthen and shorten the legislative review process, and institute a faster approval process once partners are selected. This bill is the product of the work done by the Joint Legislative and Executive Commission on Oversight of Public-Private Partnerships.

STATE OF THE STATE ADDRESS

At noon on February 1, Governor O'Malley delivered his State of the State address to members of the General Assembly who gathered in the chamber of the House of Delegates. The Governor highlighted the initiatives found in his 2012 legislative package. He reiterated his support for same-sex marriages and for environmental proposals related to the proliferation of septic systems and the development of offshore wind energy.

The Governor also recognized that hard choices would have to be made to gain passage of proposals to extend Maryland sales tax to gasoline purchases, increase the flush tax, and raise taxes on upper bracket incomes.

COURTS AND CIVIL PROCEEDINGS

Same-Sex Marriage

Same-sex marriage is legal in six states and the District of Columbia. The Civil Marriage Protection Act, an Administration initiative to legalize same-sex marriage in Maryland by specifying that only a marriage between two individuals who are not otherwise prohibited from marrying is valid in Maryland, received testimony at a committee hearing this week. [SB 241](#) expands on the religious exemptions offered in a similar bill from last session that passed the Senate but failed in the House. This session's bill:

- extends legal protections to religious leaders who refuse to solemnize or officiate at any particular marriage or religious rite of marriage that violates their religious beliefs; and
- specifies that each religious organization, association, or society has exclusive control over its own theological doctrine, policy teachings, and beliefs regarding who may marry within that faith.

Additionally, such an entity, or a nonprofit institution or organization operated, supervised, or controlled by it, may not be required to provide services, accommodations, advantages, facilities, goods, or privileges related to marriage or the promotion of marriage through any social or religious programs or services in violation of the entity's religious beliefs, unless State or federal funds are received for that specific program or service. Also, a fraternal benefit society that is operated, supervised, or controlled by a religious organization may not be required to admit an individual or provide insurance benefits if doing so would violate the society's religious beliefs. The companion bill, [HB 438](#), is not yet scheduled for a hearing.

CRIMES, CORRECTIONS, AND PUBLIC SAFETY

Public Defender Representation

A Maryland Court of Appeals ruling on January 4, 2012, *DeWolfe v. Richmond*, held that Maryland statute

requires the Office of the Public Defender (OPD) to provide indigent representation at District Court commissioner bail hearings, at initial appearances in District Court and circuit court, and at bail review hearings, unless representation by counsel is waived. The ruling was expected to take effect February 4, but OPD filed a motion this week requesting that it be stayed for at least six months. The court will consider the motion on February 16, effectively delaying implementation of the new requirement for at least two weeks.

Currently, public defenders staff only a handful of bail review hearings and none of the commissioner hearings, which number more than 170,000 per year. Compliance with the court ruling will greatly increase costs and significantly burden local law enforcement and corrections and State's Attorneys, as well as OPD. The Public Defender deemed immediate implementation impossible in light of OPD's current resource constraints.

In response to this situation, [HB 112](#) and [HB 261](#), emergency bills heard this week in committee, statutorily specify that OPD is not required to provide representation to an indigent individual for an initial appearance before a District Court commissioner or a District Court or circuit court judge, but it is required to provide representation at bail review. Emergency bills require approval by three fifths of both the House and Senate and take effect immediately upon enactment.

ENVIRONMENT, NATURAL RESOURCES, AND AGRICULTURE

Natural Resources

Testimony was heard this week on [SB 101](#), prohibiting the Department of Natural Resources (DNR) from placing a tracking device on a vessel without a court order and establishing reporting requirements.

A bill that prohibits a marine gathering, defined as the intentional congregation of at least 50 vessels in State waters, without a permit issued by DNR ([SB 127](#)), was also heard this week. Under the bill's provisions, a marine gathering does not include (1) a race, regatta, parade, exhibition, or other marine event for which the U.S. Coast Guard requires a permit; (2) a docking competition; or (3) vessels docked or moored at a marina.

Chesapeake Bay Watershed

Several bills relate to the State's Watershed Implementation Plan (WIP), developed to comply with

the Chesapeake Bay Total Maximum Daily Load (Bay TMDL), which (1) sets the standard maximum amount of pollution the bay can receive and still attain water quality standards, and (2) identifies specific reduction requirements.

Testimony was heard this week on [HB 33](#), an emergency bill that prohibits the State from submitting WIP documents to the U.S. Environmental Protection Agency that are based on nutrient or sediment reduction goals that exceed federal requirements.

Other bills include:

- [SB 330/HB 464](#), prohibiting the Department of Agriculture, the Department of the Environment (MDE), and DNR from adopting regulations to help the State meet the agricultural sector requirements of the Bay TMDL unless New York, Pennsylvania, Virginia, West Virginia, and the District of Columbia achieve or exceed the percentage reduction of nitrogen and the percentage reduction of phosphorus that the State has achieved from 2009 levels under specified circumstances; and
- [HB 486](#), requiring MDE to create a list that ranks best management practices relating to a WIP based on cost and expected pollution reduction value.

FISCAL MATTERS

Proposed Amendments to the Maryland Constitution

Companion bills, [SB 65/HB 121](#) are proposed constitutional amendments that restrict the use of the Chesapeake and Atlantic Coastal Bays 2010 Trust Fund and Bay Restoration Fund (BRF) to the specific purposes set forth in State law on or after July 1, 2012, and prohibit the transfer of these funds to the general fund.

[HB 23](#), the Dedicated State Funds Protection Act, is also a proposed constitutional amendment that restricts the use of dedicated State funds to the specific purposes that are set forth in law and prohibits the transfer of dedicated State funds to the general fund. The bill creates exceptions to the prohibition on transfers, but only for specified defense or relief purposes. Additionally, funds in the Gasoline and Motor Vehicle Revenue Account (GMVRA) must be distributed in accordance with the statutory formula in effect on October 1, 2008.

If enacted, [SB 65/HB 121](#) and [HB 23](#) must be submitted to a statewide vote at the November 2012 general election.

HEALTH CARE AND HEALTH INSURANCE

Chemotherapy Parity

The Kathleen Mathias Chemotherapy Parity Act ([SB 179](#)) was heard by a Senate committee this week. The bill prohibits insurers, nonprofit health service plans, and health maintenance organizations (carriers) that provide coverage for cancer chemotherapy from imposing dollar limits, copayments, deductibles, or coinsurance requirements on coverage for orally administered cancer chemotherapy that are less favorable to an enrollee than those that apply to cancer chemotherapy administered intravenously or by injection.

The bill applies to all policies and contracts issued, delivered, or renewed in the State on or after October 1, 2012. The crossfiled House bill, [HB 243](#), is scheduled for a hearing next week.

TRANSPORTATION

This session, committee members will hear testimony on a number of bills addressing transportation issues. Nearly 60 measures have been introduced at this point. This week the public weighed in on the following legislation.

Registration

[SB 25](#) clarifies the definition of “historic motor vehicle” so that antique truck enthusiasts may register their truck tractors at the lower “historic” rate rather than as commercial vehicles. The change would make it easier for owners to enter antique trucks in shows and parades and improve the ability of enforcement agencies to inspect old trucks that might be used improperly for commercial purposes.

Rules of the Road

[SB 89](#), [SB 177](#), and [HB 67](#) address requirements for a driver who is approaching a non-functioning traffic control signal. Current law requires a driver to stop and yield when approaching a highway from an expressway exit ramp if the traffic signal is not visible. The bills, with technical differences, expand the requirement so that drivers have to yield at any intersection where the traffic signal is not working. [HB 67](#) also requires a driver to yield to a pedestrian in the intersection.

[SB 125](#) requires the driver of a car in the adjacent lane to yield to a public bus if the bus displays a “yield” sign, is traveling in the same direction, and indicates with a left turn signal that it is re-entering traffic after stopping for passengers.

Licensing

[SB 110](#) allows the Motor Vehicle Administration (MVA) to require a parent or guardian to attend a young driver improvement program with a license applicant who committed a third moving violation while holding a provisional license. This proposal adds to current sanctions of suspending the license for 180 days, requiring attendance at a young driver improvement program, and restricting the license so that the minor may drive only to school or work for a subsequent 180 days.

[SB 111](#) allows the MVA to make identification cards and drivers’ licenses valid for 8 years rather than 5. Currently, only the identification cards and licenses for applicants older than age 65 are valid for 8 years.

[SB 124](#) allows drivers age 25 or older to take an exam for a provisional license six months after obtaining a learner’s permit, if other requirements are met.

[SB 50](#) requires male and female driver’s license or identification card applicants between the ages of 15 and 25 to agree to register for Selective Service upon signing the application or reaching age 18. If the applicants do not sign the consent, the MVA is still required to forward some information to the Selective Service System. The requirement also applies to applicants for a moped operator’s permit.

[HB 52](#) mandates an application fee for a person to reinstate a suspended or revoked driver’s license. The fee ranges from \$50 to \$150, depending on the circumstances.

Enforcement

[HB 55](#) clarifies that the prohibition against using a cell phone or other text messaging device, either hand-held or hands-free, while driving applies to all drivers younger than age 18. It specifies penalties for violations and clarifies that enforcement of the prohibition is a primary offense.

[SB 116](#) allows the driver of a vehicle carrying an overweight load consisting only of perishable products to proceed to its destination, as long as the motor carrier employing the driver has not had a perishable load overweight violation within the previous 365 days.