



The Legislative Wrap-Up

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APRIL DEADLINES

April 2 is the 83rd day of the 2012 session. If the State Budget Bill is not passed by this constitutionally mandated deadline of seven days before the end of the session, the Governor must issue a proclamation extending the 2012 session past *sine die*, which is midnight on April 9. During an extended session, the General Assembly may only deal with the Budget Bill and the costs of the extended session. If, however, the Budget Bill ([SB 150](#)) comes out of conference committee and passes, as expected, the 2012 regular session of the General Assembly will come to a close at midnight on April 9.

The last extended session occurred in April 1992 when the session was extended for four days until a budget agreement was reached. A special one-day session was then called to pass the capital budget, several bills related to revenue enhancements, as well as a bill related to the University of Maryland's borrowing authority.

BILL SIGNINGS

The Governor's Office has announced the following dates for the 2012 bill signing ceremonies to be held in the State House:

- Tuesday, April 10, at 10:30 a.m. (traditional *sine die* signing);
- Wednesday, May 2, at 2:00 p.m.; and
- Tuesday, May 22, at 10:30 a.m.

COURTS AND CIVIL PROCEEDINGS

Jury Duty

The House amended and passed [HB 353](#), which prohibits an employer from requiring an employee who performs jury service for at least four hours to work a shift that begins on or after 5 p.m. the day of jury service or before 3 a.m. the day after jury service. A similar bill with different work requirement restrictions, [SB 16](#), passed the House recently with preliminary approval.

Judges' Retirement System

As amended and passed by the House, [HB 249](#) increases the Judges' Retirement System member contribution rate from 6% to 8% of earnable compensation for current and new members, establishes vesting requirements for new judges, and alters the Judicial Compensation Commission joint resolution salary recommendation process by providing that the joint resolution is effective only if passed by the General Assembly. Current law provides that the joint resolution salary recommendations go into effect if the legislature fails to reject them by a certain time. The companion bill that passed the Senate, [SB 335](#), addresses only the member contribution rate.

Child Sexual Abuse – Expanded Definition

Child welfare legislation that concerns human trafficking is advancing. [HB 860](#) passed in the House and expands the definition of child sexual abuse to include human trafficking for purposes of laws concerning children in need of assistance and child abuse and neglect. Allowing or encouraging a child to engage in obscene or pornographic photography, films, poses, or similar activity or prostitution is included in the definition as well.

Human Trafficking – Posted Signs

Also advancing are bills that require owners of privately-owned bus stations and truck stops to post signs with the National Human Trafficking Resource Center Hotline number. [SB 352](#) passed the Senate and companion [HB 607](#) received a favorable Senate preliminary vote with amendments. The chambers disagree on the dollar amount of the civil penalty for violations.

CRIMES, CORRECTIONS, AND PUBLIC SAFETY

Child Pornography

[HB 349](#), which extends from one to two years the statute of limitations for the prosecution of possession of child pornography, passed and is ready for the Governor's

signature. The companion, [SB 889](#), passed the Senate in identical form.

Phylicia's Law

As amended and passed by the House, [HB 1120](#) requires a law enforcement agency to coordinate volunteer search teams as part of its duty to immediately institute appropriate intensive search procedures relating to a missing child under the age of 14 and to make an effort to include organizations and groups that provide volunteer search teams or resources relating to missing children, if appropriate.

For children who have disappeared from or are thought to be located in the State, the State Clearinghouse for Missing Children must publish missing children names and relevant information and annual statistics. The bill also authorizes the Clearinghouse to establish and maintain a list of organizations and groups that provide volunteer search teams or resources relating to missing children.

Marijuana – DeMinimus Quantity

The chambers disagree on legislation ([SB 214/HB 350](#)) that reduces the maximum penalty for use or possession of a small quantity of marijuana. The Senate provides for a de minimus quantity of less than 14 grams, while the House provides for less than 7 grams. Provisions for an exemption from the appeal bond requirement differ as well. The chambers agree on a maximum penalty of 90 days in jail and a \$500 fine.

Telecommunication Devices – Prisoners

Defeated by a committee, [SB 669 /HB 1086](#) (both failed) would have required the Division of Correction to revoke diminution credits, also known as good-time credits, of inmates caught with a telecommunication device in prison and prohibited the credits from being restored.

ECONOMIC AND BUSINESS ISSUES

Maryland Offshore Wind Energy Act of 2012

An Administration bill ([HB 441](#)) that establishes an application and review process for offshore wind projects within the Public Service Commission (PSC) passed the House. Under the measure, the State Renewable Energy Portfolio Standard (RPS) is altered to include a certain percentage of Maryland's electricity supply derived from offshore wind energy. Developers interested in creating a wind farm must meet certain criteria for project approval, including certain pricing provisions.

Amendments include a cap on the amount of wind energy electricity that can be sold to customers owning agricultural land. Other amendments:

- stipulate that the PSC may not approve projects unless the cost to residential ratepayers does not exceed \$1.50 (down from \$2) per month for an average customer and does not exceed 1.5% (down from 2.5%) for the average commercial customer;
- require that proposed offshore wind projects detail efforts to retain federal dollars to subsidize their costs; and
- allow the creation of a Maryland Offshore Wind Business Development Fund, partly funded by money paid by a qualified offshore wind project, to provide assistance to emerging businesses in Maryland.

Utilities – Gas Infrastructure Surcharge

The House passed [HB 662](#), which authorizes gas companies to file a plan with the PSC requesting authorization to include a surcharge on customers' bills to recover costs associated with eligible infrastructure replacement projects. The bill limits the potential monthly surcharge to \$2 per month. While the PSC may approve a plan if certain conditions are met, if the PSC does not approve or deny a plan within 180 days, a gas company may implement the plan without the PSC's approval. The companion bill [SB 541](#) (failed) was defeated on second reading in the Senate, was reconsidered on second reading, and failed again.

The legislation stems from a request last year by the Washington Gas Light Company (WGL) that the PSC approve, in addition to a rate increase, an accelerated pipe replacement plan. WGL planned to spend \$115 million over five years to replace piping infrastructure and sought to recover the costs through a customer surcharge. The PSC authorized WGL to accelerate its plan, but cited that a surcharge would represent a fundamental shift from traditional ratemaking principles.

Maryland Innovation Initiative

Administration bills that create an Innovation Initiative within the Maryland Technology Development Corporation passed their original chambers with identical amendments ([SB 239/HB 442](#)). As amended, the initiative is authorized to provide grant funding to Maryland's research institutions (Johns Hopkins University, University of Maryland Baltimore, University of Maryland College Park, University of Maryland Baltimore County, and Morgan State University (MSU)) and to affiliated start-up companies

and entrepreneurs with the goal of commercializing research endeavors.

To participate, the institutions must contribute certain funds to the initiative, and University System of Maryland (USM) institutions and MSU are required to undertake “high impact development activities” that maximize job creation and workforce development in Maryland. Furthermore, USM institutions and MSU may invest in, finance, or operate entities that support high impact economic activity.

EDUCATION

Charter Schools

[HB 1218](#), proposed originally to reorganize the charter school mandate to alter chartering authorities, application requirements, funding, and facility funding, as amended and passed by the House now creates a Task Force to Study the Improvement of Maryland Public Charter Schools. The 16-member task force must report its findings and recommendations to the Governor and the General Assembly by September 30, 2013.

ENVIRONMENT, NATURAL RESOURCES, AND AGRICULTURE

Sustainable Growth and Agricultural Preservation

After extended floor debate, [SB 236](#), based in part on the recommendations of the Task Force on Sustainable Growth and Wastewater Disposal, has moved to the House. As amended, the Administration bill creates four growth tiers based on the existing or planned sewerage service for use by local jurisdictions in approving major residential subdivision plans, which limit new septic systems. Amendments include exceptions to the growth tiers and clarification of the authority of local government.

Hunting and Fishing

The House defeated legislation on third reading ([HB 1419](#), failed) that would have increased some hunting license fees and would have created some new hunting and trapping licenses. The legislation would have also clarified that the State Wildlife Management Protection Fund may be used only for the scientific investigation, protection, propagation, and management of wildlife and administrative costs directly related to the Fund.

Senate floor discussion this week included [SB 1032](#) related to gill net use. As introduced, the measure would have prohibited the use of gill nets for catching finfish within the State. As amended, the bill instead requires

the Department of Natural Resources to establish a technical advisory group on the use of gill nets, with the purpose of making recommendations on the need for regulations. However, the Senate recommitted the bill from the floor to a committee, which probably will kill its chances for this session.

Arsenic

The House amended and passed [HB 167](#), which prohibits the use of roxarsone or any other additive that contains arsenic in commercial feed intended for use as poultry feed, unless the additive is approved by the U.S. Food and Drug Administration.

Honey

The Senate passed and sent to the House [SB 193](#), which establishes a Maryland standard of identity for honey. The original crossfiled bill, [HB 159](#), passed the House last month. Both bills allow for actions to enforce the bills’ requirements, but differ in the persons or groups who can bring an action to the court, among other differences in the enforcement provisions.

Reduction in Lead Risk in Housing

Testimony on [HB 644](#) was heard this week by a Senate committee. The bill modifies the State’s Lead Poisoning Prevention Program partially in response to the recent Maryland Court of Appeals decision, *Jackson, et al., v. Dackman Co. et al.*

As amended, the bill expands the lead abatement requirements applicable to rental housing to child care centers, family child care centers, and preschools. Also, as of January 1, 2015, the bill’s provisions apply to property constructed before 1978, and there is a rebuttable presumption related to lead ingestion under certain circumstances.

Among its provisions, [HB 21](#), now in the Senate, requires the court to dismiss a claim filed in a circuit court or a United States District Court against a person for injury caused by the ingestion of lead-based paint or lead-contaminated dust if the claimant does not file a certificate of a qualified expert for each defendant.

Disposable Bags

Recently, a House committee gathered testimony on [SB 164](#), which requires the Maryland Department of the Environment to establish a registration program for plastic carryout bag manufacturers in order to promote the recycling of plastic carryout bags.

[HB 895](#) (failed) would have authorized Prince George’s County to impose fees for the use of disposable bags, but was defeated by a House committee.

FISCAL MATTERS

Conference Committees – Fiscal Package

The 2012 fiscal package bills, [SB 150](#) (Budget Bill), [SB 152](#) (Budget Reconciliation and Financing Act of 2012, or BRFA), and [SB 523](#) (State and Local Revenue and Financing Act of 2012), are under consideration by conference committees.

Capital Budget

The Senate passed [SB 151](#), the Maryland Consolidated Capital Bond Loan of 2012, authorizing \$1.1 billion in general obligation bonds. Under the Maryland Constitution, a bond bill may not gain final passage 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.

The capital budget continues to authorize \$357.5 million for public school construction, including \$6.1 million for the Aging Schools Program. There is an additional \$15.3 million for the Qualified Zone Academy Bond Program. Senate actions to the bill include decreasing authorizations for land preservation programs, including Program Open Space, Rural Legacy, and the Maryland Agricultural Land Preservation Program, and increasing funding for the Chesapeake Bay 2010 Trust Fund. Specifically, the changes include:

- reducing Program Open Space by \$15.5 million, from \$70.1 million to \$54.6 million, with \$32.9 million preauthorized in [SB 151](#) for issuance in 2013. The Budget Bill ([SB 150](#)), contains an additional \$5.5 million for the program;
- eliminating funds for the Rural Legacy Program, a \$14.9 million reduction, with \$9.5 million preauthorized for issuance in 2013;
- reducing funds for the Maryland Agricultural Land Preservation Program by \$10.7 million, from \$14.1 million to \$3.4 million, with \$12.7 million preauthorized in [SB 151](#) for issuance in 2013. The Budget Bill ([SB 150](#)) contains an additional \$8.8 million for the program; and
- increasing the Chesapeake Bay 2010 Trust Fund authorization by \$26 million, from \$27.8 million to \$53.8 million.

Additional changes include:

- providing the University of Maryland, Baltimore \$5 million with a matching fund requirement for the design of a Health Sciences Research Facility III;

- providing the University of Maryland College Park \$5 million to begin a design for a new Bioengineering Building;
- providing the Rental Housing Program a \$5 million authorization increase to \$20 million; and
- reducing the Strategic Demolition and Smart Growth Impact Project Fund authorization to zero dollars from \$5 million. Community Legacy Program funds that amount to \$6 million in [SB 151](#) may be used to fund sustainable communities, and it is unlikely that planning areas will be identified before the end of fiscal 2013.

Prior Authorizations of State Debt to Fund Capital Projects – Alteration

Legislation ([SB 1037](#)) passed the Senate and is now in the House to amend the conditions under which State grant funds may be used. The changes do not materially affect State finances or operations.

The bill extends matching fund deadlines for prior authorization bond bills and capital projects, removes or lowers matching fund requirements, extends deadlines for expending or encumbering funds, modifies or removes certification requirements, renames grant recipients, alters project locations, or alters the purposes for which funds may be used. In some cases, altering the purpose of grant funds merely adds greater specification for how the funds may be used; in other cases grant funds may be reassigned to an entirely different project. The bill is effective June 1, 2012.

Income Tax – Film Production Credit

[SB 1066](#) increases from \$7.5 million to \$22.5 million the total amount of tax credits the Department of Business and Economic Development may award in each fiscal year to qualified film production entities under the film production activity credit. Taking effect July 1, 2012, the bill also extends the termination date of the credit to July 1, 2016. The bill passed the Senate and is in a House committee.

Estate Tax – Family Farms

[SB 294](#), the Family Farm Preservation Act of 2012, passed the Senate and is scheduled for a House committee hearing next week. The bill exempts from the State estate tax up to \$5 million of qualified agricultural property. To qualify, the property must pass from a decedent to a qualified recipient who enters into an agreement to use the property for farming purposes after the decedent's death. Also, the bill generally limits the estate tax on qualified agricultural property included in an estate to 5% of the value of the qualified agricultural property that exceeds \$5 million.

The Tax Credit Evaluation Act

SB 739, with Senate approval, establishes a process for evaluating State tax credits. The bill provides for a legislative committee evaluation process in consultation with the Comptroller's Office, the Department of Budget and Management, and the Department of Legislative Services. The listed tax credits are evaluated from July 1, 2014, through July 1, 2017. Among the tax credits to be evaluated are the earned income tax credit, the sustainable communities tax credit, enterprise zone wages, enterprise zone qualified property, the new job-creating businesses tax credit, and the qualified research and development expenses. The original companion bill, **HB 764**, as passed by the House, evaluates a larger number of tax credits during the same time period.

Failed Legislation

The following bills received unfavorable committee votes:

- **SB 269** (failed), the Maryland Business Tax Fairness Act;
- **HB 146** (failed), the Transportation Trust Fund Protection Act;
- **HB 23** (failed), the Dedicated State Funds Protection Act; and
- **SB 65/HB 121** (both failed), concerning prohibiting transfers of funds from the Chesapeake and Atlantic Coastal Bays 2010 Trust Fund and Bay Restoration Fund.

GAMING, RACING, AND SPORTS

Fantasy Competition

An amended **HB 7**, addressing fantasy competition games, passed the House and will be heard by a Senate committee next week. The bill explicitly exempts a specified "fantasy competition" from prohibitions against betting, wagering, and gambling in State law. "Fantasy competition" is defined as including games in which participants own, manage, or coach imaginary teams; all prizes and awards offered to winning participants are established and made known to participants in advance of the game or contest; and the winning outcome of the game or contest reflects the relative skill of the participants and is determined by statistics generated by actual individuals (e.g., professional sports players and teams).

Table Games

SB 892, introduced to authorize a sixth video lottery location and table games at video lottery facilities, was amended by committee and on the floor before being passed by the Senate.

A House committee is scheduled to hear the bill with additional provisions that include:

- video lottery terminals (VLTs) no longer must be owned or leased by the State (with the exception of Allegany County);
- table games are authorized at video lottery locations, subject to voter referendum;
- a sixth video lottery location with 4,750 VLTs is authorized, subject to constitutional amendment, for a location in Prince George's County;
- the Prince George's location must be authorized by a majority of the voters in the county;
- the Education Trust Fund may be used to fund the hold harmless grants and for the expansion of public early childhood education programs, and;
- an entity may own no more than two video lottery facilities (in current law an entity may own only one facility).

VLTs in Charitable Organizations

This week, a Senate committee heard testimony on **SB 1042**, which authorizes a distributor or vendor of slot machines to deliver, possess, or transport a slot machine, regardless of any direct affiliation with a manufacturer. The bill applies to slot machines that certain nonprofit organizations are currently authorized to operate in nine specified Eastern Shore counties. Current law states that a person may take delivery of, transport, or possess a slot machine if the person operates with or under a distributorship contract with a manufacturer of the slot machines.

Race Track Operating Assistance

Chapter 412 of 2011 altered the distributions and uses of Purse Dedication Account (PDA) and the Racetrack Facility Renewal Account (RFRA), which receive revenues from the State's VLT program for the purpose of providing operating assistance to the State's thoroughbred and standardbred racetracks. For calendar year 2012 only, Rosecroft Raceway and Ocean Downs Race Course were eligible to receive up to \$1.2 million from the PDA, subject to specific requirements. One of the requirements was that the tracks were to offer a minimum of 40 live racing days to receive the assistance.

[SB 794](#) initially aimed to make this change to the PDA permanent, and both tracks would need to continue to offer a minimum of 40 live racing days annually to be eligible for assistance of up to \$1.2 million annually. As amended and passed by the Senate, the bill limits the operating assistance to the years 2012 through 2015.

HEALTH CARE AND HEALTH INSURANCE

Kathleen Mathias Chemotherapy Parity Act of 2012

Crossfiled measures establishing the Kathleen Mathias Chemotherapy Parity Act of 2012 ([SB 179/HB 243](#)) crossed over to the opposite chambers, where the Senate bill was heard by a House committee this week. The House measure has passed the General Assembly.

The legislation prohibits insurers, nonprofit health service plans, and health maintenance organizations (carriers) that provide coverage for both orally administered cancer chemotherapy and cancer chemotherapy administered intravenously or by injection 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 Act applies to all policies, contracts, and health benefit plans issued, delivered, or renewed in the State on or after October 1, 2012.

Maryland Health Benefit Exchange Act of 2012

The Maryland Health Benefit Exchange Act of 2012 ([SB 238/HB 443](#)) passed in their chambers of origin and are before opposite chamber committees in hearings next week. As identically amended, the bills require the Board of Trustees of the Maryland Health Benefit Exchange (Exchange) to:

- submit regulations to specified standing advisory committees;
- make qualified dental and vision plans available to certain individuals and employers as specified by the bill;
- enter into certain agreements or memoranda of understanding with another state under certain circumstances; and
- seek to achieve a certain enrollment and decrease the number of State residents without health insurance coverage.

The legislation also establishes the framework for the Small Business Health Options Program (SHOP) Exchange, and establishes navigator programs for the

SHOP and Individual Exchanges. Additionally, the legislation requires SHOP Exchange navigators to be licensed, Individual Exchange navigators to be certified, and insurance producers to be authorized to sell qualified health plans (QHPs) and qualified dental plans (QDPs) in the SHOP and/or Individual Exchanges.

There is also a process for selecting the benchmark plan that will serve as the standard for the essential health benefits for health benefit plans offered in the small group and individual markets, both inside and outside the Exchange.

Maryland Health Improvement and Disparities Reduction Act of 2012

[SB 234/HB 439](#) passed their chambers of origin with identical amendments recently. The legislation establishes a process for designation of “Health Enterprise Zones” (HEZs) to target State resources to reduce health disparities, improve health outcomes, and reduce health costs and hospital readmissions in specific areas of the State. Additionally, the bills authorize specified incentives for “Health Enterprise Zone practitioners” who practice in a HEZ, including tax credits against the State income tax.

Amendments authorize the Secretary of the Department of Health and Mental Hygiene to adopt regulations and require the Secretary to consult with the Office of Minority Health and Health Disparities in implementing the Act. Amendments also require the Community Health Resources Commission to provide funding in accordance with the designation of the Secretary of a HEZ and to establish a refundable State income tax credit to certain health care providers who practice in and hire certain health care providers to practice in a HEZ.

Tanning Devices – Use by Minors – Prohibition

Legislation that would have prohibited the use of tanning devices by minors failed a Senate committee vote. [SB 213](#) (failed) would have prohibited owners, employees, and operators of tanning facilities from allowing minors to use tanning devices.

Benchmarks – Preauthorization of Health Care Services

Crossfiled measures [SB 540/HB 470](#), which establish benchmarks for the preauthorization of health care services, passed their chambers of origin and are before committees next week in the opposite chambers. The amended bills require the Maryland Health Care Commission (MHCC) to work with payors and providers to attain benchmarks for standardizing and automating the process required by payors for preauthorizing health care services.

The benchmarks set forth in the bill are to be completed in three phases by payors and providers, each with set dates for completion. MHCC is required to report, by March 31, 2013, the progress on the attainment of the benchmarks and any recommendations for adjustment to the Phase 2 and Phase 3 completion dates. On or before December 31, 2013, MHCC is required to report on the benchmarks annually through 2016. MHCC is also authorized to adopt regulations to adjust benchmark attainment dates; require payors and providers to comply with the benchmarks; and establish penalties for noncompliance.

Posthumous Use of Donor Sperm and Eggs

Amended legislation ([SB 71/HB 101](#)), containing provisions for the posthumous use of donor sperm and eggs, were in opposite chamber hearings this week. The bills prohibit a person from using, for the purpose of assisted reproduction, a *known* donor's sperm or eggs after the donor's death without the donor's previous (written, signed, and notarized) consent.

Knowingly violating the prohibition is a misdemeanor and on conviction is subject to a maximum fine of \$1,000 for a first offense and \$5,000 for a second or subsequent offense. The bills also make various changes to the State inheritance laws, providing for a revised definition of a "child" and making changes in distribution laws.

STATE GOVERNMENT

Public Private Partnerships (P3s)

This week, the Administration's bill ([HB 576](#)) on P3s passed the House with several committee amendments. The proposal is scheduled for a Senate hearing next week. The bill establishes that the public policy of the State is to use P3s for infrastructure initiatives to further the development and maintenance of infrastructure assets; apportion between the public sector and the private sector the risks involved in the development, operation, or maintenance of infrastructure assets; foster the creation of jobs; and promote the socioeconomic development and competitiveness of Maryland.

Other provisions authorize specified State agencies to enter into P3s, establish a process and associated reporting requirements for State oversight, and institute a process for both solicited and unsolicited P3 proposals.

After much debate on the House floor, delegates adopted a floor amendment that changes the language of the committee amendment that created an immediate appeal to the Court of Appeals from an order affecting the validity of a P3, and set time requirements for briefings

and issuing a decision. The adopted floor amendment gives the Court of Special Appeals (rather than the Court of Appeals) jurisdiction to hear an immediate appeal with a decision due 90 days after the appeal (rather than the original 150 days).

However, the House resisted changing the committee amendment that makes the appeal jurisdiction provision apply to P3s established before, on, or after the effective date of the bill (July 1, 2012). Opponents argued that this provision might adversely affect the pending December 2010 lawsuit by downtown Baltimore owners against the State Center P3. The lawsuit alleges that the State did not comply with competitive bidding requirements and procedures.

The State Center involves a major multi-phase redevelopment of several State office buildings and surface parking lots in Baltimore City into a mixed-use transit-oriented development including retail, housing, and office space. The total cost of the project is \$1.5 billion.

TRANSPORTATION

Chesapeake Bay Crossing

[SB 818](#) (failed) would have required the Maryland Transportation Authority to begin an environmental impact study this year on construction of a third bridge spanning the Chesapeake Bay. The bill, which received a favorable report from a Senate committee, was defeated on the Senate floor. It addressed concerns about traffic congestion on the William Preston, Jr. Memorial (Bay) Bridge between Annapolis and Maryland's Eastern Shore. The multi-year proposed study carried an estimated cost of approximately \$30 million.