



The Legislative Wrap-Up

Library and Information Services, Department of Legislative Services

Issue 12-14

April 2012 – *Sine Die*

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SINE DIE – APRIL 9, 2012

By *sine die* at midnight on April 9, the 90th day of the 2012 regular session, the General Assembly passed 791 bills and five joint resolutions, including a balanced operating Budget Bill ([SB 150](#), passed). By the passing of the Budget Bill, the General Assembly avoided the extended session required by the Maryland Constitution, during which only the budget may be considered. The General Assembly also agreed to adopt the capital budget bill ([SB 151](#), passed).

However, two other bills in the fiscal package, [SB 152](#) (failed), the Budget Reconciliation and Financing Act of 2012, and [SB 523](#) (failed), the State and Local Revenue and Financing Act of 2012, were unsuccessful on the last evening. A special session to address these issues is under discussion.

BILL SIGNINGS

The traditional *sine die* bill signing took place as scheduled on April 10, the day after the close of the 2012 regular session. Along with Chapter 1 (Somerset County – County Commissioners – Districts – [SB 46](#)) and Chapter 2 (Civil Marriage Protection Act – [HB 438](#)), which were signed during the regular session, the last signing brings the total of enacted legislation to 145 chapters and two joint resolutions. In the Senate 1,101 bills and seven joint resolutions were introduced. In the House, there were 1,479 bill introductions and 16 joint resolutions.

Further 2012 bill signing ceremonies to be held in the State House are scheduled for:

- Wednesday, May 2, at 2:00 p.m.; and
- Tuesday, May 22, at 10:30 a.m.

ADMINISTRATION BILLS

By custom and courtesy, the President of the Senate and the Speaker of the House introduce Administration bills (*i.e.*, those proposed by the Governor). In addition to the Governor's budget bill package, a number of other

Administration proposals were considered. Administration legislation that gained final passage includes measures that:

- *redraw district lines* for the General Assembly in 2014 under the Legislative Districting Plan of 2012 ([SJ 1/HJ 1](#), Joint Resolution 1 and 2);
- *legalize same sex marriage* under The Civil Marriage Protection Act ([HB 438](#), Ch. 2);
- *establish Health Enterprise Zones* in underserved communities under the Maryland Health Improvement and Disparities Reduction Act of 2012 ([SB 234](#), Ch. 3);
- *continue to implement the Health Benefit Exchange required by federal law* under the Maryland Health Benefit Exchange Act of 2012 ([HB 443](#), passed);
- *preserve family farms* under certain conditions under the Family Farm Preservation Act of 2012 ([SB 294/HB 444](#), both passed);
- *regulate the use of septic systems* in the State under the Sustainable Growth and Agricultural Preservation Act of 2012 ([SB 236](#), passed);
- *increase the flush tax* under the Bay Restoration Fund – Fees and Uses ([HB 446](#), passed);
- *create an initiative to establish a joint venture between Maryland and its leading academic research institutions* to accelerate commercialization of technology under the Economic Development – Maryland Technology Development Corporation – Maryland Innovation Initiative ([HB 442](#), passed);
- *prevent persons who engage in specified investment activities in Iran from doing business with public bodies in the State* under Procurement – Investment Activities in Iran ([SB 235/HB 440](#), both passed); and
- *expand the list of cancers that firefighters and rescue squad members are presumed to have suffered in the line of duty* under Worker's Compensation – Medical Presumptions and Study ([HB 1101](#), passed).

Unsuccessful Administration bills would have added to Maryland law by:

- *generating offshore wind energy* under the Maryland Offshore Wind Energy Act of 2012 ([SB 237/HB 441](#), both failed);
- *establishing State policy and procedures for public-private partnerships* under Public-Private Partnerships ([SB 358/HB 576](#), both failed); and
- *imposing an additional gas tax based on the retail price of gasoline*, among other provisions, under the Maryland Transportation Financing and Infrastructure Investment Act of 2012 ([SB 971/HB 1302](#), both failed).

SENATE BIPARTISAN POLICY AGENDA

Early in the 2012 regular session, Maryland Senate Democratic and Republican Caucus leaders announced their bipartisan policy agenda. The bills with amendments gained final passage and are ready for the Governor's consideration. The legislation focused on:

- *an identity lock for Social Security numbers* of minors and protected persons to prevent fraudulent use of these numbers ([SB 295/HB 555](#), both passed);
- *accountability for learning in educational core content* areas such as reading, language, math, science, and social studies ([SB 293](#) and [HB 1227](#), both passed);
- *family farm protection* through an exemption of up to \$5 million from the State estate tax if certain conditions are met ([SB 294/HB 444](#), both passed);
- *an income tax credit for costs incurred by a business to obtain security clearances* for its employees in the State, etc. ([SB 296](#), passed); and
- *an extension of the Veterans of the Afghanistan and Iraq Conflicts Scholarship* to 2020 ([SB 292](#), passed).

COURTS AND CIVIL PROCEEDINGS

Same-Sex Marriage

On March 1, the Governor legalized same-sex marriage in Maryland by signing into law the Civil Marriage Protection Act ([HB 438](#), Chapter 2). The act establishes that only a marriage between two individuals who are not otherwise prohibited from marrying is valid in the State and includes exemptions to accommodate religious groups. The delayed effective date is January 2013 or after any lawsuits over a referendum effort are resolved,

if the lawsuit occurs after January 2013. Court rulings invalidating any portion of the act would void the entire law.

Judiciary

[SJ 3](#) (passed) maintains judicial salaries for fiscal 2013 and phases in over the next three fiscal years an increase of \$14,081 for each judge of the appellate courts, District Court, and circuit court.

[SB 335](#) (passed) increases the Judges' Retirement System member contribution rate from 6% to 8% of earnable compensation for current and new members and establishes a five-year vesting requirement for new member judges.

[SB 616](#) (failed) would have established a commission to study issues relating to the mandatory retirement age for judges, appointment of retired judges to sit temporarily in court, and continuing education for such judges.

Mediation

With certain exceptions, communications made in a mediation in which the parties are required to mediate by law or are referred to mediation by an administrative agency or arbitrator, or in which the parties agree in writing that the mediation communications will remain confidential, must be kept confidential under [SB 856](#) (passed).

Child Welfare

Recently passed bills that address human trafficking as it relates to child welfare laws ([HB 860](#), passed) and require signs in bus stations and truck stops with the National Human Trafficking Resource Center Hotline number ([SB 352](#), passed) saw their companion bills pass this week ([SB 1082](#) and [HB 607](#), respectively; both passed).

Unsuccessful bills would have criminalized the failure to report child abuse or neglect ([SB 140](#), [SB 63/HB 1067](#), and [HB 496](#), all failed). As amended in the Senate, [SB 63](#) would have also established a Task Force to Study Training for School Employees and Volunteers on the Prevention, Identification, and Reporting of Child Sexual Abuse. [SB 626](#) (failed) would have imposed a civil penalty on professionals who fail to report child abuse or neglect and established a Child Abuse Prevention Fund.

Discrimination

[SB 278/HB 183](#) (both failed) would have extended the law concerning discrimination by a place of public accommodation to the website of a business entity that is a place of public accommodation or provides goods, services, entertainment, recreation, or transportation to

any person in the State through the Internet, and has gross revenue of at least \$1 million, requiring that the websites be made accessible to persons with disabilities.

SB 212 (failed) would have prohibited discrimination based on gender identity in public accommodations, employment and housing, and by persons licensed or regulated by the Department of Labor, Licensing, and Regulation; and prohibited discrimination based on gender identity and sexual orientation in State personnel actions and commercial property leasing.

Convicted Perjurer Testimony

Failing a House committee vote, amended **SB 673** (failed) would have repealed the current State law that prohibits a convicted perjurer from testifying in court proceedings. Companion bill **HB 926** (failed) would have authorized a convicted perjurer to testify if the testimony related to events in which the perjurer was an alleged victim.

Domestic Violence

SB 359 (failed) would have expanded eligibility for a domestic violence protective order to include individuals in an intimate dating relationship or who have had a consensual or nonconsensual sexual relationship; and authorized a court, in a final protective order, to order a respondent to vacate and award temporary use and possession of a home to a nonspouse person eligible for relief under certain circumstances.

CRIMES, CORRECTIONS, AND PUBLIC SAFETY

Public Defender Representation

In response to a January Court of Appeals decision requiring the Office of the Public Defender (OPD) to provide indigent representation under certain circumstances, the General Assembly passed **SB 422** (passed) last week and **HB 261** (passed) this week to require the OPD to provide representation to indigent individuals at bail hearings before a District Court or circuit court judge, but not at an initial appearance before a District Court commissioner. An immediate bail review hearing before a District Court judge is required if the court is in session or, if not, at the court's next session, after a commissioner denies pretrial release or determines conditions of release after which the defendant remains in custody.

The bills also require a police officer to charge a person by citation for any misdemeanor or local ordinance violation that carries no jail time or a maximum jail time of 90 days or less, with certain exceptions, and for

marijuana possession; create a task force to study the laws and policies relating to representation of indigent criminal defendants by the OPD; and require data collection by law enforcement officers for citations issued from 2013 through 2017 for use in developing a policy against using race or ethnicity as the sole justification for issuing a citation. **HB 119** (failed) would have provided similar citation provisions and policy and reporting requirements.

Sprinkler Systems – Local Prohibitions

Gaining final passage, **SB 602/HB 366** (both passed) prohibit a county or municipal corporation from adopting local amendments to the Maryland Building Performance Standards (MBPS) that weaken the MBPS automatic fire sprinkler systems requirements for townhouses and one- and two-family dwellings, with certain exceptions and grandfathering provisions.

Compliance Credits

The Department of Public Safety and Correctional Services is required to establish a program to implement earned compliance credits that may be used at the discretion of the Parole Commission or the court to reduce the period of active supervision for certain individuals on probation, parole, or mandatory release by 20 days for every month that the individuals meet certain good behavior requirements (**SB 691/HB 670**, both passed).

Phylicia's Law

HB 1120 (passed) 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 17. 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 – De Minimis Quantity

SB 214/HB 350 (both passed) reduce the maximum penalty for use or possession of less than 10 grams of marijuana to 90 days in jail and a \$500 fine and add an exemption from the appeal bond requirement for those convicted of the violation.

Caylee's Law – Failed

HB 20 (failed) would have prohibited a parent or other person who has permanent care or custody or

responsibility for the supervision of a child under the age of 13 from recklessly or willfully failing to report within 24 hours that the child is missing or from failing to report the minor's death within five hours of becoming aware of it. Violation would have been a misdemeanor punishable by up to three years in jail. Similar bills ([SB 139/](#)[HB 122](#) and [HB 18](#), all failed) never advanced.

Gun Legislation – Failed

Measures left in committee or withdrawn would have:

- repealed the requirement that the Secretary of State Police find that a person has a good and substantial reason to wear, carry, or transport a handgun before issuing a handgun permit to the person ([HB 45](#), [HB 430](#), [HB 488](#), [HB 1135](#), all failed);
- made valid in Maryland a license to carry a regulated firearm issued to an individual by Delaware, Pennsylvania, Virginia, or West Virginia ([HB 256](#), failed); and
- established recordkeeping and reporting requirements for firearms dealer licensees and required the disapproval of a firearms dealer's license application if certain persons will participate in the management or operation of the business or hold an interest in the business ([HB 1310](#), failed). Amended companion bill [SB 512](#) (failed) was also unsuccessful.

Other Failed Legislation

- *Pretrial Release.* [SB 690/](#)[HB 338](#) (failed) would have prohibited a District Court commissioner from authorizing the pretrial release of a defendant charged with murder, manslaughter, certain sexual offenses, or carjacking;
- *Domestic Violence – Strangulation.* [SB 612/](#)[HB 1074](#) (both failed) would have expanded the felony crime of first degree assault to include strangulation, with a penalty of up to 25 years in prison;
- *Crimes against Animals.* [SB 203](#) (failed) would have authorized a court to order a defendant convicted of animal abuse, neglect, or cruelty, as a condition of sentencing, to pay all reasonable costs incurred in removing, housing, treating, or euthanizing an animal confiscated from the defendant, in addition to any other fines and costs. Similar companion bill [HB 484](#) (failed) and [SB 445/](#)[HB 336](#) (both failed) died; and
- *Registered Sex Offenders.* Registrants would have been prohibited from participating in any Halloween or Halloween alternative activity involving children ([HB 1351](#), failed) or from entering onto real

property that is owned or operated by a community-based organization that provides recreational activities for children ([SB 871/](#)[HB 591](#), both failed).

ECONOMIC AND BUSINESS ISSUES

Maryland Innovation Initiative and Fund

Administration bill [HB 442](#) (passed) creates an Initiative and a Fund (MIIF) within the Maryland Technology Development Corporation. The initiative is to provide grant funding to Maryland's research institutions and to affiliated start-up companies and entrepreneurs to promote technology transfer from these institutions to the private sector. The MIIF will consist of State appropriations, funds from the participating research institutions, grants from federal laboratories in Maryland, and other fund sources.

University System of Maryland (USM) institutions and Morgan State are required to undertake "high impact development activities," or transactions and initiatives that maximize job creation and workforce development in Maryland, and may invest in, finance, or operate entities that support high impact economic activity. Companion [SB 239](#) (failed) was unsuccessful.

Offshore Wind Energy – Failed

Failed Administration bills would have created a market for wind energy development in the State ([SB 237/](#)[HB 441](#), both failed). An altered Renewable Energy Portfolio Standard would have required a certain percentage of energy to come from wind starting in 2017 and would have established a process for wind turbine developers to build a commercial wind farm off of Maryland's Atlantic coast.

After much floor debate over ratepayer costs, federal subsidies, and the feasibility and sustainability of such projects, the House passed an amended version of [HB 441](#) (failed) that lessened the cost to ratepayers and required proposed offshore wind projects to detail their efforts to retain federal dollars, among other amendments. However, the bill remained in a Senate committee at session's end, as did companion measure [SB 237](#) (failed).

Retail Pet Stores

Procedures for a customer to obtain a remedy from a retail pet store that sells a dog that is found to have an undisclosed disease, illness, or prior condition are established by [SB 317](#) and [HB 131](#) (both passed). Recordkeeping and disclosure requirements that must be followed by retail pet stores are also explained. The definition of retail pet store excludes nonprofit

organizations, even those operating within a pet store. Violations are unfair or deceptive trade practices under the Maryland Consumer Protection Act and subject to civil and criminal penalties.

Injured Workers' Insurance Fund (IWIF)

An emergency bill (SB 745, passed) converts the IWIF from an independent State entity into a statutorily created, nonprofit, private, nonstock workers' compensation insurer to be named the Chesapeake Employers' Insurance Company, which will be the State's workers' compensation insurer of last resort. Current IWIF employees have the option to remain State employees, so the IWIF will remain in existence for as long as it continues to have employees.

IWIF was required to pay to the State general fund an amount of \$50 million dollars under the failed Budget Reconciliation and Financing Act of 2012 (BRFA) (SB 152, failed) to resolve any claims the State may have on the property or assets of IWIF.

Additionally, the Maryland Insurance Administration is required to study whether the company should be subject to certain ratemaking requirements and must contract with a firm to determine the IWIF's fair value. If the fair value is determined to be \$50 million or more, the company must pay to the general fund, in annual installments, the amount in excess of the \$50 million already paid.

The original companion measure HB 1017 (passed) also passed, but as amended now creates a Task Force to Study Maryland Insurance of Last Resort Programs, charged with reporting on how insurers of last resort can be structured within the State and how affiliations with these insurers can benefit the State.

Alcoholic Beverages Licensing

Successful bills allow persons in restaurants, hotels, or clubs to consume wine that was not purchased on the licensed premises (SB 755/HB 228, Chs. 86 and 87). Licensed establishments may charge taxable "corkage fees" at the discretion of the licensee. The legislation requires licensees to obtain a permit from the local licensing board to provide customers with the option to bring their own wine to the establishment.

Also successful were bills that create a farm brewery manufacturer's license (SB 579/HB 1126, both passed). Holders of the license may sell and deliver beer manufactured from a Maryland agricultural product and produced on the farm, as well as provide samples, sell certain foods, and store, brew, and bottle beer. The legislation also provides for allowing a licensee to hold licensed promotional events.

Legislation that authorizes certain manufacturer license holders to obtain additional licenses for the same or a different class for the same location or additional premises passed (HB 595, passed). Affected license classes include distillery, rectifying, winery, limited winery, or brewery.

Disclosure – Personal Information

SB 433 and HB 964 (both passed) prohibit employers, including State and local governments, from requiring that employees and employment applicants disclose their user names and/or passwords for their personal Internet or electronic accounts, and employers may not discipline or threaten to discipline employees or employment applicants for refusing to disclose such information.

However, employers may still require employees to supply information that allows entry to nonpersonal accounts that provide access to the employer's internal information systems. Furthermore, employers are not prohibited from conducting investigations of employees' personal accounts that are suspected to have been used for downloading proprietary or financial information from the employer.

If the Governor signs the legislation, Maryland will be the first State in the nation to put the restriction into law, although similar bills are under consideration in several states.

Homeowner's Insurance – Failed

Legislation addressing homeowner's insurance coverage in areas of the State susceptible to hurricane damage, such as coastal areas, failed. HB 1383 (failed) would have prohibited insurers from refusing to issue or renew a homeowner's insurance policy *solely* because the home or the policyholder's address is in a certain geographic area. Insurers would have had to file a written underwriting standard addressing the specific geographic region to be approved by the Maryland Insurance Commissioner before the insurer could implement the standard in the State.

EDUCATION

Age of Compulsory Attendance

Under SB 362 (passed), the change in the maximum age of compulsory attendance for public schools from 15 to 17 will be phased in so that beginning with the 2015-2016 school year, the age of compulsory school attendance increases from 15 to 16; beginning with the 2017-2018 school year, the age increases again from 16 to 17. The bill specifies a number of exemptions from the requirement, and the State Superintendent of Schools

may waive the age requirement for students that meet these exemptions.

Core Content and Accountability

[SB 293](#) and [HB 1227](#) (both passed) require the State Board of Education and the State Superintendent of Schools to implement annual assessment programs in reading, language, mathematics, science, and social studies that include written responses beginning with the 2014-2015 school year.

At the middle school level, the assessment program must be a statewide, comprehensive, grade band program that measures the learning gains of each public school student towards achieving mastery of the standards set forth in the State's adopted curricula or the common core curricula.

At the high school level, the assessment program must be a statewide, standardized, end-of-course assessment that measures each public school student's skills and knowledge of the State's adopted curricula. The bill also establishes a mandated appropriation for fiscal 2014.

Maintenance of Effort (MOE)

A local jurisdiction must meet MOE by providing at least as much per pupil funding as the county provided to the school system in the previous fiscal year. As passed and signed by the Governor, [SB 848](#) (Ch. 6), an emergency bill, alters the process for MOE school funding and waiver requests.

The legislation requires a county governing body to apply to the State Board of Education for a waiver from the State's public school MOE requirement if the county is unable to fund the full MOE amount. If a county does not receive a waiver from the State board, it must fund the full MOE amount or the State will intercept the county's local income tax revenues in the amount by which the county is below MOE and forward the funds to the local school board.

The State board must consider specified factors in reviewing waiver requests. Counties that receive waivers and are making above-average education effort will be able to request "rebased waivers" that allow limited decreases to their annual MOE amounts if they can demonstrate ongoing problems with meeting MOE. Counties are given the authority to exceed local tax limitations to fund education, and counties with below-average effort will have to increase their MOE.

Penalties for noncompliance with MOE in fiscal 2012 are waived, and required fiscal 2013 per pupil MOE amounts for counties that did not meet MOE in fiscal 2012 return to the required fiscal 2012 amounts, except in counties with 3.2% local income tax rates.

Virtual Learning

The General Assembly examined a number of bills concerning online education opportunities for primary and secondary school students. Successful bills [SB 689/HB 745](#) (passed) establish the Maryland Advisory Council for Virtual Learning to encourage and support student education in accordance with national standards of online learning and State law and to annually make recommendations about digital learning that align with their mission.

[SB 674/HB 1219](#) (both passed) authorize a local board of education to request that the MSDE develop or review and approve online courses and services in primary and secondary public schools. The emergency bills create a timeline by which MSDE must either delegate the request to a county board or work to develop or review the courses itself. If MSDE delegates a course review, the county board may charge the vendor a reasonable fee to cover the cost of this evaluation process and must request approval of the online course from MSDE once it has completed the development or the review and approval.

Unsuccessful online learning bills include [HB 1079](#), [SB 735/HB 1222](#), [SB 736/HB 1215](#) (all failed).

Financial Literacy

Chapter 186 of 2008 created the Task Force to Study How to Improve Financial Literacy in the State. Although much of the task force's work was dedicated to studying financial literacy in primary and secondary schools, recommendations relating to the financial education of adults encouraged both State and private employers who receive a State contract or assistance to provide financial education training.

[SB 476/HB 515](#) (both passed) create the Financial Education and Capability Commission to monitor the implementation of public and private initiatives to improve the financial education and capability of residents of the State, as well as to make recommendations on the coordination of financial literacy efforts across State agencies.

Failed Education Legislation

- [SB 878](#) (failed) and [HB 1241](#) (failed) would have established a "Preschool for All" program requiring local school systems to make publicly funded prekindergarten available to all four-year-old children by the 2015-2016 school year;
- [HB 196](#) (failed) would have normalized, statewide, the amount of time students in grades K-5 must dedicate to physical activity to total 150 minutes per week, including a minimum of 90 minutes per week

of physical education. A very similar bill, [SB 564](#) (failed) was also unsuccessful;

- [HB 201](#) (failed) would have required schools to list the number of calories contained in a menu item next to the item on a menu published by the school;
- [HB 335](#) (failed) would have allowed a student who must travel more than 30 miles to reach the student's assigned public secondary school to attend a public secondary school in an adjoining county if it is closer than the assigned public secondary school and below 80% capacity;
- [HB 1217](#) (failed) would have reorganized the charter school mandate and authorized the State Board of Education to be the primary public chartering authority for State schools;
- [HB 1218](#) (failed) would have created a Task Force to Study the Improvement of Maryland Public Charter Schools;
- [SB 557](#) (failed) would have expanded the definition of a "public body" for the purpose of the Open Meetings Act to include an entity created by a "memorandum of understanding or a master agreement to which a majority of the county boards of education and the State Department of Education are signatories"; and
- [SB 434/HB 310](#) (failed) would have prohibited an institution of higher education or postsecondary education from requiring a student or applicant to provide the institution with access to the student's personal Internet electronic accounts such as Facebook, Twitter, or other social or electronic accounts.

Legislators will run for the General Assembly in the new districts in 2014.

Online Disclosure

[SB 920](#) (passed) grew out of recommendations of the Senate Special Committee on Ethics Reform, which was established in January 2012 by the Senate President.

As amended, [SB 920](#) requires that statements filed by a legislator regarding the legislator's disqualification or voluntary recusal from participation in a legislative action, as well as other reports filed by legislators relating to potential conflict of interest, be filed electronically and on or after January 1, 2013, be freely available to the public on the Internet through an online registration program. However, a legislator, on the written advice of the Counsel to the Joint Ethics Committee, is not required to report information that would violate standards of client confidentiality or professional conduct.

Legislators must also report information to the Joint Committee on Legislative Ethics with respect to other circumstances that may give rise to a conflict of interest. The reports are a matter of public record and may be filed electronically. Information relating to salary or other considerations will not be published on the Internet, nor will the member annual financial disclosure statements.

The State Ethics Commission and Joint Committee on Legislative Ethics must maintain the statements and, during normal office hours, make the statements available to the public for examination and copying.

The legislation also establishes a 2012 interim workgroup to perform a comprehensive and coordinated review of disclosure requirements under the Maryland Public Ethics Law.

Voter Registration Agencies – Electronic Signatures

To date, voter registration has been accomplished through paper applications. Currently, an online voter registration system is under development that will allow for voter registration applications. An MVA driver's license or identification card number will be required to register through the online system, though absent uniformed services or overseas voters can register online with a Social Security number.

As signed by the Governor, [HB 173](#) (Ch. 106) specifies that an applicant registering to vote at a voter registration agency may consent to the use of an electronic copy of the individual's signature that is on file with the agency as the individual's signature for the application. Voter registration agencies include agencies providing public assistance and services for individuals with disabilities,

ELECTIONS AND ETHICS

Governor's Legislative Districting Plan

Because the General Assembly did not adopt an alternative legislative redistricting plan by the 45th day of the 2012 session, the Governor's redistricting plan, introduced as [SJ 1/HJ 1 \(JR 1/JR 2\)](#) became law on Friday, February 24. Article III, Section 5 of the Maryland Constitution requires the Governor to conduct public hearings and introduce a plan "setting forth the boundaries of the legislative districts for electing of the members of the Senate and House of Delegates." Further, the constitution states that, "If no plan has been adopted by the General Assembly for these purposes by the 45th day... the Governor's plan...shall become law."

public higher education institutions, and military recruiting offices.

17th Amendment to the United States Constitution

[SJ 2/HJ 3](#) (both passed) establish the State of Maryland's ratification of the 17th Amendment to the U.S. Constitution, which specifies that U.S. Senators be elected by the people of each state rather than by the state legislatures of the respective states. Three-fourths of the states, which is the necessary number for the amendment to become part of the U.S. Constitution, ratified the 17th amendment in 1913. In 2010, the Delaware General Assembly passed ratification legislation making Delaware the most recent ratifying state.

Failed Legislation

A number of failed bills relating to Maryland elections address:

- *Polling Places – Proof of Identity* ([HB 113](#), [SB 412](#), [HB 705](#), all failed);
- *Registered Offenders at Polling Places* ([HB 200](#) and [HB 495](#), both failed);
- *Special Elections – Voting by Mail* ([HB 225](#), failed);
- *Subsequent Election Absentee Ballot List* ([SB 341/HB 657](#), both failed);
- *Citizens Who Have Not Lived in the United States – Right to Vote* ([HB 226](#), failed);
- *Voter's Rights Protection Act of 2012* ([HB 314](#), failed);
- *Public Funding and Small Donor Act for General Assembly Elections* ([SB 270/HB 195](#), both failed);
- *Petitions – Confidentiality* ([SB 91/HB 27](#), both failed); and
- *Signatures on Petitions* ([HB 41](#) and [HB 42](#), both failed).

ENVIRONMENT, NATURAL RESOURCES, AND AGRICULTURE

Sustainable Growth

Based in part on the recommendations of the Task Force on Sustainable Growth and Wastewater Disposal, [SB 236](#) (passed) creates four growth tiers based on specific land use characteristics for local jurisdictions to adopt for use in approving major residential subdivisions served by onsite sewage disposal systems, community sewerage systems, or shared systems. The bill includes

exceptions to the growth tiers and clarification of the authority of local government, as well as a requirement that the Maryland Department of Environment (MDE) draft regulations relating to nutrient offsets and the Maryland Department of Planning (MDP) report on the implementation of the bill by February 1, 2013.

Bay Restoration Fee/Flush Tax

[HB 446](#) (passed), an Administration bill, doubles the statewide residential wastewater and sewerage fees, except for wastewater facilities, onsite sewage disposal systems, and sewage holding tanks that do not discharge into or are not located within the Chesapeake Bay Watershed or the Coastal Bays Watershed. The bill also establishes a method for calculating the fee for nonresidential users, clarifies the uses of the Bay Restoration Fund, and reverts the fees to current levels in 2030.

Stormwater Management

Reducing the impact of stormwater runoff on the waters of the State was discussed this session. [HB 987](#) (passed) as amended requires counties and municipal corporations, by July 1, 2013, to adopt local laws or ordinances necessary to establish an annual stormwater remediation fee and a local watershed protection and restoration fund to provide financial assistance for the implementation of local stormwater management plans, and provides for exceptions.

State Development Plan (PlanMaryland)

Over the past four years, MDP has worked with State agencies, local governments, private industry, and the general public to develop a new State comprehensive development plan, known as PlanMaryland. In December 2011, the Governor accepted PlanMaryland and filed Executive Order 01.01.2011.22, which outlines a process for implementing the plan. Concern that PlanMaryland may weaken local government planning and zoning authority and reduce State aid to some local jurisdictions led to the introduction of numerous bills addressing PlanMaryland or the State Development Plan (Plan) process.

One bill that passed, [HB 1201](#) (passed), prohibits the Plan from being used to deny a State-issued permit or certain State funding, clarifies that the Plan does not supersede any statute, ordinance or regulation, and prohibits the Plan from requiring local governments to change or alter a local plan.

Disposable Bags

The General Assembly considered several bills this session aimed at limiting the amount of plastic bags that litter the natural areas and waters of the State, but none

passed ([SB 164/HB 229](#), [HB 895](#), [HB 1247](#), [SB 511](#), [HB 169](#), all failed) .

Hydraulic Fracturing in the Marcellus Shale Formation

The Marcellus Shale formation in the Appalachian Range has recently attracted significant attention from the energy industry for its rich natural gas deposits now accessible using horizontal drilling and high-volume hydraulic fracturing processes. In Maryland, the formation is located in Allegany, Garrett, and Washington counties; however, the only anticipated areas of gas production are in Garrett County and the western portion of Allegany County.

As the use of hydraulic fracturing in other states has increased, so has concern about its potential impacts. In response, Governor O'Malley established the ongoing Marcellus Shale Safe Drilling Initiative by executive order (01.01.2011.11) in June 2011 to ensure that, if drilling for natural gas from the Marcellus Shale proceeds in Maryland, it is done in a way that protects public health, safety, natural resources, and the environment.

The MDE is authorized to issue permits for oil and gas exploration and production and is required to coordinate with the Department of Natural Resources (DNR) its evaluation of the environmental assessment of any proposed oil or gas well. Current regulations, written prior to the use of hydraulic fracturing, apply to all gas wells in Maryland.

In response to this complicated issue, a number of bills relating to gas drilling were considered this session. [HB 1123](#) (passed) establishes a presumptive impact to water supply contamination in an area within 2,500 feet of a deep shale deposit gas well for which MDE has issued a gas exploration or production permit.

Failed bills, [SB 798/HB 1204](#) (both failed), would have required the owner of a gas interest in real property underlain by the Marcellus Shale to pay a \$15 per acre fee to be paid into the State's Oil and Gas Fund to be used to fund the costs of the ongoing study of the Marcellus Shale.

Reduction of Lead Risk in Housing

Several bills responded to the recent Maryland Court of Appeals decision, *Jackson, et al., v. Dackman Co. et al.*, which declared a portion of the State's lead poisoning prevention program unconstitutional, including:

- [HB 644](#) (passed), which expands the lead abatement requirements applicable to rental housing to child care centers, family child care centers, and preschools and clarifies issues that may be

considered in an action seeking damages, among other provisions;

- [HB 472](#) (passed), which requires the Maryland Insurance Commission to convene a workgroup to evaluate and make recommendations relating to lead liability protections for owners of pre-1978 rental property; and
- [HB 21](#) (failed), which would have required the dismissal of 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 person did not file a certificate of a qualified expert for each defendant, among other provisions.

Arsenic

After lengthy debate, the General Assembly passed [HB 167](#) (passed), which prohibits the use of roxarsone or other additives that contains arsenic in commercial feed intended for use as poultry feed unless it is approved by the U.S. Food and Drug Administration, and specifically allows the use of the FDA-approved drug histostat in poultry feed.

Honey

A Maryland standard of identity for honey is established with the passage of [SB 193](#) (passed). The bill sets requirements for the labeling of honey, and although it does not require the Maryland Department of Agriculture to enforce the bill's provisions, the bill authorizes an action to be filed in circuit court by specified persons and entities, including the Attorney General.

Marine Gathering Permit

[SB 127](#) (passed) prohibits, with exceptions, a marine gathering, defined as the intentional congregations of at least 100 vessels in State waters, without a permit issued by DNR.

Protection from Nuisance Actions

[SB 706/HB 915](#) (both failed) would have expanded existing provisions of law protecting agriculture and silvicultural operations from nuisance actions to apply to commercial fishing and seafood operations.

FINANCIAL INSTITUTIONS AND COMMERCIAL LAW

Lend Local Act of 2012

[SB 792/HB 571](#) (passed), known as the Lend Local Act of 2012, have passed and now await the Governor's

signature. The bills establish a Linked Deposit Program for Small Businesses in the Department of Housing and Community Development (DHCD) to support small businesses that qualify for the Small Business Reserve Program in gaining access to credit by assisting these businesses in obtaining loans at lower-than-market interest rates. The Department of General Services (DGS) must confirm the small business status of a business at the point of the initial loan and notify DHCD if a business receiving a loan under the program no longer qualifies as a small business.

FISCAL MATTERS

Doomsday Budget

This session, the General Assembly passed [SB 150](#), the \$35.4 billion Budget Bill, which is now law. The Budget Bill does not require the Governor's signature and becomes effective upon final passage. The legislature also passed [SB 151](#), the Maryland Consolidated Capital Bond Loan of 2012 (capital budget bill), but neither of the 2012 regular session proposals that addressed major tax increases and other budget-balancing actions were successful ([SB 152](#) and [SB 523](#), both failed).

The General Assembly reduced the Governor's proposed budget for fiscal 2013 by \$1.2 billion, including \$436.3 million due to the failure of [SB 152](#), the Budget Reconciliation and Financing Act of 2012 (the BRFA), and [SB 523](#), the State and Local Revenue and Financing Act of 2012.

[SB 152](#), the BRFA, would have changed mandated spending formulas, transferred money to the general fund, and transferred employer costs for school employee pensions to the counties, while [SB 523](#), the State and Local Revenue and Financing Act of 2012, would have increased taxes. The failure of these two bills triggers \$436.3 million reductions found in the Budget Bill.

Additionally, the failure of the BRFA and its provisions that would have transferred the employer share of school employee pension costs to the counties reduces the Governor's allowance by \$186.3 million in Section 42 of the Budget Bill, while the failure of [SB 523](#) triggers reductions of \$250 million in the doomsday budget, Section 43 of the Budget Bill. There were \$239.9 million in reductions in the Budget Bill contingent upon changes made in the BRFA, but these reductions will not take effect.

Major provisions in the enacted Budget Bill include:

- Public education receives \$5.8 billion, including \$892 million in teacher retirement costs;

- State universities and colleges receive \$1.1 billion in general funds while community colleges receive \$195.1 million;
- Medical assistance and the Maryland Children's Health Program receive \$7.1 billion in State and federal funds; and
- Program Open Space receives \$60.1 million in State and federal funds in [SB 150](#), plus an additional \$60.6 million in [SB 151](#).

Reductions to the Budget Bill due to the failure of [SB 152](#) include:

- eliminating the Geographic Cost of Education Index for a reduction of \$128.8 million;
- reducing the per pupil foundation grant in the State aid for education from \$6,761 to \$6,650 for a reduction of \$70.9 million;
- reducing the disparity grant to low-income counties by 10% for a savings of \$12 million;
- reducing the supplemental disparity grant for a reduction of \$19.6 million;
- eliminating local law enforcement grants for a savings of \$20.8 million;

Reductions to the Budget Bill due to the failure of [SB 523](#) include:

- eliminating the Stem Cell Research Fund for a savings of \$10.4 million;
- eliminating the Biotechnology Tax Credit for a savings of \$8 million;
- eliminating the Sustainable Communities Tax Credit for a savings of \$7 million
- reducing State aid for State universities and colleges for a savings of \$38.5 million;
- reducing funding for community colleges for a savings of \$19.9 million;
- reducing the Sellinger grants to nonpublic universities and colleges by \$3.8 million;
- eliminating Senatorial and Delegate scholarships for a savings of \$11.8 million;
- eliminating the scheduled January 1, 2013, 2% cost-of-living-adjustment for State employees for a savings of \$33.8 million;
- eliminating 500 State employee positions for a savings of \$30 million; and

- reducing State agency operating expenses for a savings of \$50 million.

Transfer of Pension Costs to Counties

A major provision of the BRFA was the transfer of the employer share of school employee pension costs from the State to the county school boards. As recommended by the conference committee on [SB 152](#), the transfer would have occurred over four years with the school board bearing 50% of the costs during fiscal 2013, 65% during fiscal 2014, 85% during fiscal 2015, and 100% during fiscal 2016 and thereafter. The transfer would have increased the counties' maintenance of effort requirements, which would have been offset by additional local income tax revenues and additional revenue from the imposition of the recordation tax on indemnity mortgages in [SB 523](#) and a teachers' retirement supplemental grant in [SB 152](#). The local cost for fiscal 2013 would have been \$136.6 million, of which \$131.5 million would have been offset. The costs of the underfunding of the pension system would have continued to have been borne by the State.

State and Local Revenues – Taxes

The conference committee recommendations on [SB 523](#), the State and Local Revenue and Financing Act of 2012, would have increased the income tax rate from 4.75% to 5.00% on individuals making more than \$100,000 and on married couples filing jointly making more than \$150,000. There were other rate increases proposed on higher income amounts to a maximum rate of 5.75% on both individuals and married couples filing jointly making more than \$500,000. The rate change would have raised \$195.6 million in State revenues in fiscal 2013.

The bill also would have phased out the personal income exemption for high-earning individuals and couples. Individuals making more than \$100,000 and married couples filing jointly making more than \$150,000 would have had personal exemptions of \$1,600 per person instead of the current \$2,400, while individuals making more than \$200,000 and married couples filing jointly making more than \$250,000 would have had no personal exemptions. The reduction in personal exemptions would have increased State revenue by \$51.7 million and local revenues by \$31.4 million in fiscal 2013.

Capital Budget Provisions

[SB 151](#), the capital budget, authorizes \$1.12 billion in new State debt. In the bill:

- public school construction receives \$332.6 million in authorizations, including \$31.1 million for the Aging

Schools Program, plus \$15.3 million for the Qualified Zone Academy Bond Program;

- Program Open Space receives \$60.6 million, the Rural Legacy Program receives \$5.6 million, and the Agricultural Land Preservation Program receives \$8.7 million;
- the Chesapeake Bay 2010 Trust Fund receives \$38 million;
- the University of Maryland, Baltimore receives \$4.7 million for the design of the Health Sciences Research Facility III;
- the University of Maryland College Park receives \$5 million to design and construct a new Bioengineering Building; and
- the Strategic Demolition and Smart Growth Impact Project Fund receives \$2.5 million, while the Rental Housing Program receives \$17.5 million.

Prior Authorizations of State Debt

[SB 1037](#) (passed) amends prior authorization bond bills and capital projects by altering matching fund requirements, deadlines for expending or encumbering funds, certification requirements, grant recipients, project locations, and 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 takes effect June 1, 2012.

Family Farms

[SB 294/HB 444](#) (passed), the Family Farm Preservation Act of 2012, exempts from the State estate tax up to \$5 million of qualified agricultural property. To qualify for the exemption, 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. In addition, the bill limits the estate tax imposed on qualified agricultural property included in an estate to 5% of the value of the qualified agricultural property that exceeds \$5 million.

If qualified agricultural property ceases to be used for farming purposes within 10 years, the estate tax relief under the bill will be recaptured. The bill applies to decedents dying after December 31, 2011. Unsuccessful measures on this topic included [SB 324/HB 154](#) and [SB 410](#) (all failed).

Tax Credit Evaluation Act

[SB 739/HB 764](#) (both passed) establish a process for evaluating State tax credits. The bills provide 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.

Failed Legislation

Unsuccessful fiscal measures this session include:

- [SB 249/HB 784](#) (failed), the millionaire's tax;
- [SB 1066](#) (failed), film production income tax credits;
- [HB 1345](#) (failed), the sales and use tax luxury surcharge;
- [HB 1051](#) (failed), application of the sales and use tax to additional services;
- [SB 809/HB 933](#) (failed), sales tax-free weeks for university textbooks;
- [SB 757/HB 1128](#) (failed), income tax credit for wineries and vineyards;
- [HB 24](#) (failed), repeal of the tax credits for using Maryland-mined coal. (A similar provision in the failed [SB 152](#), the BRFA, was recommended for deletion by the conference committee);
- [HB 128](#) (failed), application of the income tax to income from an electing small business trust (provisions concerning taxing the income from these trusts were amended into failed [SB 523](#));
- [SB 971/HB 1302](#) (failed), the Maryland Transportation Financing and Infrastructure Investment Act of 2012, which would have imposed a sales and use tax replacement rate of up to 6% on motor vehicle fuel;
- [SB 526/HB 1153](#) (failed), the Healthy Maryland Initiative, which would have increased the tobacco tax rate from \$2.00 to \$3.00 per pack and the other tobacco product (OTP) tax rate from 15% to 95% of the wholesale price. (Provisions to increase the tax on other tobacco products were included in failed [SB 523](#));
- [SB 441](#) and [SB 403](#) (both failed), proposals for a constitutional amendment restricting the transfer and use of transportation funds;
- [SB 696/HB 1250](#) (failed), the establishment of transit authorities with the authority to tax;
- [SB 589](#) and [SB 325](#) (both failed), an increase in the sales tax for transit purposes in certain counties; and
- [SB 766](#) (failed), an increase in the tax on motor fuel for transit purposes.

GAMING, RACING, AND SPORTS

Fantasy Competitions

[HB 7](#) (passed) 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).

Race Track Operating Assistance

Chapter 412 of 2011 altered the distributions and uses of the Purse Dedication Account (PDA) and the Racetrack Facility Renewal Account (RFRA), which receive revenues from the State's video lottery terminal 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 is that the tracks are to offer a minimum of 40 live racing days to receive the assistance.

[SB 794](#) (passed) extends this assistance to the years 2012 through 2015, provided the tracks continue to meet requirements specified in statute and the bill.

Video Lottery Terminals and Table Games

The legislature looked at expanding gaming in the State this session, proposing several bills that would add a sixth casino location and allow for table games in facilities licensed to provide video lottery gaming operations.

[SB 892](#) (failed), which includes a constitutional amendment and provisions subject to voter referendum, would have authorized a sixth video lottery operation license to be awarded for a facility within Prince George's County. The bill also would have authorized any video lottery licensee to offer table games.

[SB 26](#) (failed) also would have authorized a sixth video lottery operation license within a specified area of Prince George's County and authorized the holder of a video lottery operation license to offer specified table games. The bill would have been subject to voter referendum.

[SB 158](#) and [HB 1169](#) (both failed) also proposed granting the owner of a video lottery operation license the authority to offer table games.

Electronic Machines – Regulation

[SB 864](#) (passed) makes permanent the authority for existing qualified organizations and licensed commercial bingo licensees to operate electronic instant bingo machines that would otherwise be illegal under State law after July 1, 2012.

The bill also requires the State Lottery Commission to certify and regulate the operation, ownership, and manufacture of certain electronic gaming devices and determine whether such devices are legal and lawfully operated. Under the bill, a gaming device that is not licensed or otherwise compliant with necessary requirements as of January 1, 2013, is an illegal gaming device that may not legally operate in the State.

Failed Legislation

- [SB 11/HB 330](#) (failed) would have permitted the Maryland State Lottery Agency to issue a license for up to five pull tab machines to an eligible veterans' organization in all but the nine Eastern Shore counties already authorized to allow eligible nonprofit organizations to license up to five slot machines;
- [SB 31](#) (failed) would have authorized all counties to license up to five slot machines that are owned and operated by eligible nonprofit organizations; and
- [SB 1042](#) (failed) would have allowed a distributor or vendor of slot machines to deliver, possess, or transport a slot machine, regardless of any direct affiliation with a manufacturer, to certain nonprofit organizations that 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 to demonstrate or sell it only if the person operates with or under a distributorship contract with a manufacturer of the slot machines.

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 legislation 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

[HB 443](#) (passed) makes various updates to Maryland's Health Benefit Exchange laws. This Administration bill, as amended, expands the operating structure of the Maryland Health Benefit Exchange by, among other things, authorizing the exchange to contract with health insurance carriers in a certain manner, establishing the framework for the Small Business Health Options Program (SHOP) Exchange, and establishing navigator programs for the SHOP and Individual exchanges. The bill requires SHOP Exchange navigators to be licensed, Individual Exchange navigators to be certified, and insurance producers to be authorized to sell qualified plans in the SHOP and/or Individual exchanges. The bill also establishes 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.

The legislation has a general effective date of June 1, 2012, although some provisions do not take effect until January 1, 2014.

Maryland Health Improvement and Disparities Reduction Act of 2012

The Maryland Health Improvement and Disparities Reduction Act of 2012 ([SB 234](#), Ch. 3) 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 admissions and readmissions in specific areas of the State. The Administration bill authorizes specified incentives for "Health Enterprise Zone practitioners" who practice in an HEZ, including tax credits against the State income tax, and establishes a Health Enterprise Zone Reserve Fund.

The bill generally takes effect July 1, 2012, but some provisions take effect October 1, 2012. The HEZ and tax credit provisions of the bill terminate June 30, 2016.

Preauthorization of Health Care Services – Benchmarks

[SB 540/HB 470](#) (passed) require the Maryland Health Care Commission (MHCC) to work with specified health care payors and providers to attain benchmarks

HEALTH CARE AND HEALTH INSURANCE

Kathleen A. Mathias Chemotherapy Parity Act of 2012

The Kathleen A. Mathias Chemotherapy Parity Act of 2012 ([SB 179/HB 243](#), Chs. 4 and 5) is headed to the Governor's desk. The measures prohibit 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

for standardizing and automating the process required by payors for preauthorizing health care services. The bill establishes dates by which benchmarks must be met, requires MHCC to establish by regulation a process for waiving a payor or provider from the benchmarks for extenuating circumstances, requires MHCC to reconvene a specified workgroup, establishes multiple reporting requirements, and authorizes MHCC to adopt other specified regulations. The bills take effect June 1, 2012.

Posthumous Use of Donor Sperm and Eggs

HB 101 (passed) that prohibits 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 consent, under specified conditions. A person cannot use the known donor's sperm or eggs after the donor's death if the person knows that the donor died and did not consent to such use, or the donor or the intended parent receives any remuneration for the donation or use of the sperm or eggs. A violation is a misdemeanor with a maximum penalty of a \$1,000 fine for a first offense and a \$5,000 fine for a second or subsequent offense.

The bill also expands, for purposes of inheritance law, the definition of a "child" to include a child conceived from the genetic material of a person after the death of the person if the person gave written consent to such use and to be the parent of such a child. The bill specifies that a relation who is posthumously conceived (but born within two years after the decedent's death) may be considered as entitled to distribution in the relation's own right if the decedent/person had given such written consent.

Medical Marijuana

A variety of medical marijuana bills were introduced and considered this session. Similar bills **HB 1024** and **HB 1158** (both failed) both sought to establish commissions that would have had oversight over the use of medical marijuana in the State through various channels, including both academic use and patient use.

HB 15 (failed) was significantly amended from its original form to create an affirmative defense for caregivers of individuals using marijuana for certain medical conditions. Originally, the bill sought to create a Medical Marijuana Advisory Board and authorize the use of medical marijuana under specified circumstances.

SB 995 (failed) was also significantly amended to create an affirmative defense for caregivers. In addition, the bill would have required a written certification for qualifying patients.

Public Health – Children's Safety

Several public health bills aimed at child safety failed to pass:

- **HB 107** (failed) would have prohibited a person from selling or offering for sale specified child care products containing flame retardant chemicals; and
- **HB 727** (failed) would have required the Department of the Environment, in consultation with the Department of Health and Mental Hygiene, to publish on its website lists of specified chemicals of concern and specified chemicals of high concern applicable to child car seats and containers or packaging for food or beverages that are specifically marketed or intended for use by a minor under the age of 13.

HUMAN RESOURCES

Legislation that would have required temporary cash assistance applicants and recipients under the Family Investment Program to submit to testing for controlled dangerous substances (**SB 287/HB 560**, both failed) died in committee.

Also defeated in committee, **HB 388** (failed) would have required each State unit or political subdivision to verify the lawful presence status of an adult before providing most public benefits and would have made it a misdemeanor to provide a false, fictitious, or fraudulent statement or affidavit.

REAL PROPERTY, ESTATES, AND TRUSTS

SB 135/HB 177 (both passed) require a holder of a ground lease to comply with an existing requirement to register with the State Department of Assessments and Taxation (SDAT) before the holder may (1) collect any ground rent payments due under the ground lease; (2) bring a civil action against the leasehold tenant to enforce any rights the ground lease holder may have under the ground lease; or (3) obtain a lien on the property. The bills also repeal provisions relating to the extinguishment of a ground lease not registered with SDAT prior to September 30, 2010, and void any extinguishment certificates issued by SDAT for failure to register. The bills are in response to the Court of Appeals decision, *Muskin v. State Dept. of Assessments and Taxation*, which held that the extinguishment of a ground lease for failure to register is unconstitutional.

[SB 968/HB 1331](#) (both failed) would have required a vendor of residential real property to disclose utility consumption under specified circumstances.

STATE GOVERNMENT

Officials – Removal for Crimes

Voters will get a chance to adopt or reject a proposed constitutional amendment requiring the permanent removal from office of an elected State or local official who, while in office, enters a guilty plea or a plea of *nolo contendere* to a felony or specified misdemeanors related to the official's public duties and responsibilities. An existing provision requiring that the elected official be reinstated under specified circumstances, if a conviction is reversed or overturned, continues to apply ([HB 211](#), passed).

Currently, the Maryland Constitution provides that an official who, while in office, is convicted of or enters a plea of *nolo contendere* to a felony, or specified misdemeanors relating to the official's public duties and responsibilities, be suspended from office by operation of law without pay or benefits.

New Commemorative Day

Annually, the Governor will proclaim April 3 as the Crime Victim and Advocate Commemorative Day to honor the individuals in the State who have become crime victims and the advocates who serve those victims. The date was chosen to honor the memory of Stephanie Roper, whose death greatly contributed to the movement to aid victims and their families and led to today's Maryland Crime Victims' Resource Center, Inc., a statewide nonprofit organization dedicated to serve the interests of crime victims in Maryland ([HB 766](#), passed).

Statue of Harriet Tubman

The Governor, under [HB 1429](#) (passed), is required to authorize a gift of a statue of Harriet Tubman from the citizens of Maryland to the United States government. The bill also requires the Governor to request the United States Congress to place the statue in Emancipation Hall in the U.S. Capitol Visitor Center or another appropriate federal property in Washington, DC; and establish the Harriet Tubman Statue Commission to raise funds to pay for the costs associated with the statue and represent the State in selecting the sculptor of the statue.

Minority Business Enterprise (MBE) Reauthorization

Several bills affect the State's MBE program and the Special Secretary of the Governor's Office of Minority Affairs (GOMA). The MBE program had been scheduled to terminate July 1, 2012, but under [HB 1370](#)

(passed) was reauthorized for four years, until July 1, 2016.

The bill also requires the completion of a new disparity study by September 30, 2015, and repeals the existing statewide goal of having at least 25% of the total dollar value of each agency's procurement contracts be awarded to MBEs. Instead the Special Secretary for GOMA, in consultation with specified State agencies and other stakeholders, must establish a statewide goal biennially through the regulatory process. The Special Secretary is also required to establish biennial guidelines for State procurement units to consider in deciding whether to establish subgoals for different minority groups recognized in statute.

Another measure, [HB 1369](#) (passed) expands the authority of GOMA's Special Secretary to include promoting and coordinating training regarding the requirements of the MBE program. The bill also requires the Special Secretary to participate in State plans, programs, and operations that affect the establishment, preservation, and strengthening of minority business enterprises.

Investment Activities in Iran

Amended Administration measures [SB 235/HB 440](#) (both passed) make a person engaging in investment activities in Iran ineligible to bid on, submit a proposal for, or enter into or renew a contract with a public body for goods or services. Under the bill, a person "engages in investment activities in Iran" if:

- the person provides goods or services of \$20 million or more in the *energy sector of Iran*; or
- the person is a financial institution that extends \$20 million or more in credit to another person for 45 days or more if the person to whom the credit is extended will use the credit to provide goods or services in the *energy sector of Iran* and is identified on the list as a person engaging in investment activities in Iran.

Public-Private Partnerships (P3s) – Failed

This Administration bill ([HB 576](#), failed) would have established 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 would have authorized specified State agencies to enter into P3s, established a process and

associated reporting requirements for State oversight, and instituted a process for both solicited and unsolicited P3 proposals. As amended, the bill would have allowed an expedited appeals process and would have made the appeal jurisdiction provision apply to P3s established before, on, or after the effective date of the bill (July 1, 2012).

Other Failed Legislation

Bills were unsuccessful that addressed:

- establishing penalties or new corrective actions for State agencies for repeated audit findings ([SB 1089/HB 843](#), [SB 615](#), and [SB 617](#), all failed); and
- altering the “speech and debate” immunity for a senator or delegate so that it does not apply in a prosecution for bribery related to the senator’s or delegate’s official duties ([SB 284](#), failed).

TRANSPORTATION

Enacted Legislation

Bills dealing with transportation issues were among those signed into law on April 10, the first bill signing to occur following the end of the 2012 legislative session.

The laws:

- change the legal requirements for drivers approaching a nonfunctioning traffic signal by requiring a driver to yield to any vehicle or pedestrian in an intersection where the traffic signal is not working and remain stopped until it is safe to enter and continue through the intersection ([SB 177/HB 67](#), Chs. 44 and 45);
- strengthen rules for children riding in car safety seats by repealing a previous exemption, so that now any child under age eight must ride in a car safety seat regardless of weight, but a child 4 feet 9 inches or taller is still exempt ([SB 185/HB 313](#), Chs. 46 and 47);
- require the Maryland Department of Veterans Affairs (MDVA), on request, to provide a veteran with a document certifying veteran status. The Motor Vehicle Administration (MVA) must ensure that the driver’s license or identification card of an applicant who presents the MDVA certification or other acceptable documentation includes a notation that the applicant is a veteran. Appropriate State agencies may then contact the veteran regarding eligibility for veterans’ benefits, and veterans can demonstrate eligibility for privileges and discounts

without carrying a copy of discharge documents ([SB 276/HB 358](#), Chs. 50 and 51); and

- provide an additional method for an insurance company or its agent to legally dispose of a seriously damaged vehicle that the insurer has acquired through payment of a claim. To dispose of the vehicle, the insurance company must have a salvage certificate, and to obtain the salvage certificate the company must provide the certificate of title from the vehicle’s prior owner. If the title was lost or destroyed and the company could not obtain a salvage certificate, the company had to pay to store the inoperative vehicle. The new law allows the insurer to provide an affidavit of ownership of a vehicle, along with evidence of final payment of a claim, in order to receive a salvage certificate if the title is lost or destroyed ([SB 487/HB 435](#), Chs. 76 and 77).

School Bus Cameras

[HB 431](#) (Ch. 124) allows a school bus monitoring camera to record images of the front of a motor vehicle that passes a stopped school bus with its red lights flashing, by altering the definition of recorded image. Previous law allowed the recorded image to be of the rear license plate only.

Mopeds and Motor Scooters

[SB 309/HB 149](#) (both passed) govern an insurer’s options and responsibilities when dealing with mopeds and motor scooters. It requires a motor scooter or moped to be titled by the MVA, requires the Maryland Automobile Insurance Fund to cover mopeds and motor scooters, and requires an individual who rides or operates a motor scooter or moped to wear a helmet; if the vehicle does not have a windscreen, the rider must wear eye protection.

Use of Text Messaging Device

[SB 529/HB 55](#) (both passed) clarifies that the existing prohibition against the use of a text messaging device while driving, and enforcement of that prohibition as a primary offense, applies to all drivers, including drivers younger than age 18. The bill continues to apply an administrative penalty to those drivers younger than age 18 who violate the prohibition against texting while driving.

Registration of Historic Vehicles

[HB 668](#) (passed) establishes separate historic vehicle registration requirements for trucks, tractors, and motor homes. The MVA has traditionally registered historic vehicles but not motor homes, tow trucks, tractors, and trailers. To be registered as historic, the vehicle must be

at least 25 years old. It may not be used for general transportation or any commercial transportation of passengers or property.

Extension of Drivers' Licenses

[SB 111](#) (passed) allows the MVA to make identification cards and drivers' licenses valid for eight years rather than five.

Vehicles – Perishable Loads

[SB 116](#) (passed) allows the driver of a vehicle carrying a perishable load that is overweight to proceed to its destination as long as the driver's employer has not had a perishable load overweight violation within a year.

Smoking in Vehicles with Children

[SB 559](#) (failed), a bill which received considerable attention but died in a House committee, would have prohibited a driver or passenger from smoking in a vehicle containing a child under age eight. A similar bill, [HB 621](#) (failed), remained stalled in a House committee.

Revised 4/18/12