



The Legislative Wrap-Up

Library and Information Services, Department of Legislative Services

Issue 13-7

February 18-22, 2013

WOMAN SUFFRAGE MARCH OF 1913

On Friday morning, the Senate and House convened in a joint floor session to celebrate the 100th anniversary of the Woman Suffrage March of 1913. On February 12, 1913, 16 women left New York City to walk to Washington, D.C. Others joined along the way. On February 20, the original marchers crossed into Maryland and during the march through the State were greeted by well wishers and dignitaries, as well as hecklers. Subsequently, on March 3, 1913, a parade of more than 5,000 marchers seeking the right to vote, with more than 20 floats and numerous bands, paraded down Pennsylvania Avenue on the day before the inauguration of President Woodrow Wilson. Women finally obtained that right in the United States in 1920 after ratification of the 19th amendment to the United States Constitution.

During the joint session led by Senator Catherine E. Pugh, President of the Women Legislators of Maryland, current women legislators celebrated the march with pageantry, song, poetry, and, by reading one after another, providing details of the march and the women's suffrage movement. President Mike Miller, Speaker Mike Busch, Senator Pugh, and other Maryland dignitaries also saluted both former and present women legislators and other women who have served and are serving as leaders of the State.

COURTS AND CIVIL PROCEEDINGS

Injury or Death Caused by Dog

The House unanimously passed [HB 78](#), an emergency bill that establishes that in an action for damages against an owner when a dog causes personal injury or death, evidence that the dog caused the personal injury or death creates a rebuttable presumption that shifts to the defendant the burden of production of evidence that the owner knew or should have known that the dog was inclined to be vicious or dangerous. The common law of liability relating to attacks by dogs as it existed on April 1, 2012, is retained without regard to the dog's breed or heritage. The Senate companion bill is [SB 160](#), heard earlier this month.

Maryland Legal Services Corporation (MLSC)

Several pieces of legislation this session deal with the MLSC, established by the Maryland General Assembly in 1982. The MLSC receives and distributes grants for legal assistance to eligible clients in civil cases. The bills are:

- [SB 640/HB 838](#), which extend indefinitely the law enacted in 2010 increasing the surcharge on fees, charges, and costs in civil cases. Money from the surcharge is deposited into the MLSC Fund to finance civil legal services for indigent clients; and
- [SB 809/HB 1303](#), which increase, from \$500,000 to \$3 million, the amount the Comptroller is required to distribute from abandoned property funds to MLSC and clarifies that the money is to be distributed to the MLSC Fund. The bill also repeals provisions requiring the Governor to appropriate the specified funding.

CRIMES, CORRECTIONS, AND PUBLIC SAFETY

Death Penalty – Repeal

Late this week, a Senate committee voted favorably with amendments on [SB 276](#), the Administration bill that repeals Maryland's death penalty. The committee agreed to remove the provision requiring the Governor to include \$500,000 for the State Victims of Crime Fund in the annual budget. Some members were concerned that the appropriation to the fund might preclude a referendum on this bill in 2014, since appropriation bills may not be petitioned to referendum. Under the bill, instead of being sentenced to death, an individual found guilty of first degree murder would be sentenced to life imprisonment or life imprisonment without the possibility of parole. The bill is expected to be reported to the Senate floor for consideration early next week. [HB 295](#) is the companion bill.

Firearm Safety Act of 2013

After a very lengthy meeting on Friday, a Senate committee gave the Administration gun bill ([SB 281](#)) a

favorable vote with amendments. The bill is expected to be debated by the full Senate floor early next week and will be open to floor amendments at that time. The measure continues to ban assault weapons and high capacity magazines and to require a licensing system including a background check and fingerprinting for those who purchase, rent, or receive handguns. Committee amendments add a prohibition on gun possession by anyone who has been involuntarily committed to a mental hospital, reduce fees for license renewals, and cut the cost and hours of a required safety training course for gun owners. Another amendment also strengthens police oversight regarding “straw purchases” of guns by one person for someone else. [HB 294](#) is scheduled for a committee hearing on Friday, March 1.

Human Trafficking

This week, a House committee heard testimony on [HB 713](#), which authorizes law enforcement agencies to seize property in connection with a human trafficking violation; establishes procedures for the seizure, forfeiture, and sale of property related to human trafficking violations; and establishes the Anti-Human Trafficking Fund to benefit human trafficking victims and organizations and agencies that combat human trafficking. Offenses included as human trafficking violations include sexual solicitation of a minor, child pornography, receiving the earnings of a prostitute, and abduction of a child under age 16.

Two other bills ([SB 215/HB 1188](#)) establish that the current statutory prohibition and penalties for human trafficking of a minor apply to a victim who is younger than 21 years of age.

Contraband – Telecommunication Devices – Penalty

[HB 651](#), heard this week, prohibits a person from attempting to deliver a telecommunication device such as a cell phone to a person detained in a place of confinement. The bill specifies that a sentence imposed for the knowing possession or receipt of a telecommunication device by a detained or confined person must be consecutive to any sentence that the person was serving at the time of the crime or that had been imposed but was not yet being served. A second or subsequent violation of offenses pertaining to communications devices in places of confinement is classified as a felony, subject to increased penalties. The companion bill is [SB 478](#).

Synthetic Marijuana

After extensive floor debate, a bill related to “synthetic marijuana” passed the House this week. [HB 1](#) codifies the addition of “cannabimimetic agents” to the list of Schedule I controlled dangerous substances for purposes

of designating substances that may not be legally used, possessed, or distributed.

Another debated measure, [HB 262](#), also with House approval, requires a court, in determining if a person has violated the prohibition against dangerous substances by representing a noncontrolled substance as a controlled substance or a “fake” drug, to consider whether the chemical structure of the noncontrolled substance is substantially similar to the chemical structure of a controlled dangerous substance. [SB 348](#) is the companion measure.

Several bills that would have made changes in the current law related to Schedule I controlled dangerous substances were reported unfavorably out of committee this week ([HB 267](#), [HB 482](#), and [HB 483](#) (all failed)).

Wheeled Carts

Originally increasing the penalty for the theft of a wheeled shopping cart, [HB 156](#), as amended and passed by the House, repeals the crime of theft of a wheeled cart. The Judiciary advises that there were 11 cases for wheeled cart violations in the District Court during fiscal 2011. There were no cases in fiscal 2012. The original companion bill, [SB 191](#), remains in committee.

ECONOMIC AND BUSINESS ISSUES

Passed Legislation – Gas Companies – Surcharge

With final House approval, [SB 8](#) now goes to the Governor for consideration. The bill establishes a process for a gas company to file a plan with the Public Service Commission (PSC) requesting authorization to accelerate infrastructure replacement and to finance the reasonable and prudent costs of the work by a surcharge on customers’ bills. The bill further specifies the required components of a plan and cost calculations and limits the monthly surcharge for residential and other gas customers.

The limit on the surcharge is \$2 per month for each residential gas customer. The surcharge for a nonresidential customer must not be less than the fixed annual surcharge applicable to a residential customer, but must be capped at a level proportionate to the residential surcharge.

Maryland Offshore Wind Energy Act of 2013

Governor O’Malley’s offshore wind energy bill passed the House. [HB 226](#) creates a market for offshore wind energy through establishment of a “carve-out” for energy derived from offshore wind in the State Renewable Energy Portfolio Standard. Beginning in 2017, State

electricity sales are required to include an amount derived from offshore wind.

Qualified offshore wind projects must be approved by the PSC, which may not approve an offshore wind project unless the project is beneficial to the State, the projected rate impact does not exceed \$1.50 per month for the average residential customer in 2012 dollars, and does not exceed 1.5% of nonresidential customers' total annual electric bills. A Maryland Offshore Wind Business Development Fund and a Maryland Offshore Wind Business Development Advisory Committee are to provide financial and business development assistance, as well as employee training opportunities to emerging wind energy businesses in the State.

As amended, the measure establishes the Clean Energy Program Task Force to study and make recommendations regarding the feasibility of establishing a degree or certificate program in clean energy at one or more colleges or universities in Maryland. The companion bill, [SB 275](#), remains in a Senate committee.

Maryland Employment Advancement Right Now (EARN)

Another Administration proposal, [SB 278](#), establishes the EARN program within the Department of Labor, Licensing and Regulation (DLLR). As amended and passed by the Senate, the program approves grants for industry-led partnerships that identify high demand occupations and strategies to meet workforce needs in targeted industries. Under the measure, DLLR must implement strategies to identify State government positions in need of skilled employees and mechanisms to provide training for State employees that may result in advancement. A "Train Maryland" website must also be developed to promote training programs available in the State.

Among the bill's amendments is a requirement that any intellectual property developed with State funds remain as much as is practicable in the public domain, as well as a requirement that regional and demographic information be added to reporting information DLLR must provide. The Governor's budget proposes \$2.5 million for the program. The crossfiled measure, [HB 227](#), remains in a House committee.

EDUCATION

Truancy Education Program – Parents and Guardians

A House committee recently considered [HB 657](#), a bill creating a Truancy Education Program for parents or guardians of students who are chronically truant. Parents or guardians entering the program must be offered an

evening or weekend class that will cover compulsory school attendance laws, the effects of truancy, statistics on truancy and school dropout rates, and resources available to students. The program also must assign the parent or guardian a case manager for one year. Among other duties, the case manager will maintain a relationship with the parent or guardian and meet with the family of the student for two to three hours each month. The program will be carried out by the Office of Pupil Personnel Services in each county and is subject to the availability of State funds.

ELECTIONS AND ETHICS

Access to Voting

Maryland voters have the option of voting at an early voting center prior to election day or by absentee ballot, as alternatives to voting at a polling place on election day. These options are relatively recent changes to Maryland law. In-person early voting at early voting centers was first implemented in 2010, and "no excuse" absentee voting (not requiring a reason that a voter cannot vote on election day) was first allowed in 2006.

This session, a number of bills make further changes in Maryland election laws related to voter access. Legislation proposed by the Governor ([SB 279/HB 224](#)):

- increases the number of early voting centers in certain counties including raising the number in Frederick County from one to three sites and in Baltimore, Montgomery, and Prince George's Counties from five to eight sites;
- establishes an eight-day early voting period with longer operating hours for the 2014 election and beyond;
- allows for an individual to register to vote or update an existing voter registration address and to vote, under specified circumstances, during early voting at an early voting center; and
- makes changes to absentee voting provisions by expanding and clarifying the methods by which a voter may request to receive an absentee ballot including permitting voters to obtain the ballot via the Internet and use an online ballot marking tool to assist them with making their selections on the ballot.

The State Board of Elections (SBE) developed an online ballot marking tool in 2012 for the use of military and overseas voters voting absentee during the 2012 general election. The online ballot marking tool allows a voter to fill out a ballot sent electronically and print and mail in

the ballot, which shows the voter's selections and contains a barcode encapsulating the voter's selections. A local board of elections uses the barcode to print a duplicate ballot on a ballot card that can be scanned by an optical scan voting machine, verifies that the duplicate ballot matches the selections shown on the ballot mailed in by the voter, and then scans the duplicate ballot into the optical scan voting machine.

Other measures that address voter access with a committee hearing on the House side include:

- [SB 518 /HB 17](#), which amend the Maryland Constitution to give the General Assembly the power to provide by law a process to allow registration and election day voting;
- [SB 519/HB 242](#), which allow an individual to register to vote at an early voting center during early voting and to vote a provisional ballot at the time the individual applies to become a registered voter;
- [SB 497/HB 481](#), which repeal provisions that determine the number of early voting centers in each county based on the number of registered voters in the county and instead requires that each county have one early voting center established in each General Assembly legislative district located in whole or in part in the county; and
- [HB 427](#), which requires that an absentee ballot returned to a local board of elections by an absent uniformed services voter or an overseas voter, be considered timely if the absentee ballot is mailed on or before election day and received by the local board at any time before the certification of the election results by the board of canvassers. This time frame for these absentee ballots reflects SBE's current practice.

Petitions – Referenda

Protection of confidentiality and privacy of personal information for those who sign petitions are cited as primary concerns addressed under [SB 367/HB 729](#). These bills prohibit the public inspection of a petition once the petition is filed with the appropriate election authority, with an exception to facilitate judicial review concerning the sufficiency of the petition. Currently, there is no restriction on public access to a petition.

Another controversial and complicated proposal, under companion bills [SB 673/HB 493](#), also drew lengthy commentary before a House committee. The legislation makes various changes to statutory provisions governing petitions for submitting laws to referendum and other purposes. The changes include a requirement that a ballot issue committee (a campaign finance entity) be

formed for referendum and charter-related petition efforts, subject to requirements for reporting of contributions and expenditures made to support the collection of signatures for a petition.

There are various new requirements governing the signature collection process and determinations of petition sufficiency, including a notice that petitions are open to public inspection. Additionally, there are prohibitions against compensation of petition circulators based on the number of signatures collected (bounty payments), requirements for online training of circulators, and requirements for certifying that each signature was personally witnessed by the circulators. The legislation also prohibits the use of petition signature information for commercial solicitation.

Another measure, [HB 221](#), offers other changes to Maryland's petition laws:

- by expanding the existing prohibition against a person willfully and knowingly obtaining, or attempting to obtain, any signature to a petition by *fraud, duress, or force* to also include doing so by *threat, menace, or intimidation*; and
- by prohibiting a person from willfully and knowingly preventing, hindering, or delaying another person who has a lawful right to sign a petition from signing a petition through the use of *fraud, duress, force, threat, menace, or intimidation*.

ENVIRONMENT, NATURAL RESOURCES, AND AGRICULTURE

[SB 391/HB 106](#) (both failed) would have repealed the Sustainable Growth and Agriculture Preservation Act of 2012 and the requirements placed on local jurisdictions to create growth tiers to define areas within the jurisdictions' development and zoning plans. Both received unfavorable committee votes.

FISCAL MATTERS

Transportation Funding

A Senate committee has considered [SB 830](#), the Transportation Financing Act, which authorizes the Maryland Transit Administration (MTA) to establish two transit benefit districts to finance, construct, and operate and maintain transit facilities and transit services. MTA may establish one district in the Baltimore metropolitan area and one in the Washington metropolitan area. Each transit benefit district is authorized to impose a property tax and to issue bonds.

The bill also imposes an additional 3% sales and use tax equivalent rate on all fuels except aviation gasoline and turbine fuel based on the retail price of gasoline, excluding State and federal taxes, and authorizes counties to impose a motor fuel tax of up to five cents per gallon.

Beginning in calendar 2017, the bill will impose a motor fuel tax in any county that does not impose a tax at the maximum rate, in the amount of the difference between the motor fuel tax rate the county imposes and five cents. The bill takes effect June 1, 2013, except for the motor fuel tax provisions that take effect January 1, 2014.

Other legislation related to mass transit funding includes:

- [SB 652](#), which imposes an additional tax on motor fuel sold by a distributor to retail service stations located in any county in which the MTA or the Washington Metropolitan Area Transit Authority (WMATA) provides any service. The tax rate is equal to 2.1% of the sales price charged by a distributor. The bill establishes in the Transportation Trust Fund (TTF) a Mass Transit Account to receive the revenues from the tax to pay for the cost of light rail and Metro subway transit facilities and transit service in those jurisdictions;
- [SB 653](#), which increases the State sales tax rate from 6% to 6.5% in any county in which the MTA or WMATA provides any service. The bill also establishes in the TTF a Mass Transit Account to receive 7.7% of sales tax revenues collected on sales in these counties to pay for the cost of light rail and Metro subway transit facilities and transit service in those jurisdictions. Of the funds in the TTF that are not credited to the Mass Transit Account, the Maryland Department of Transportation (MDOT) may not budget an amount to pay transit costs in excess of the amount budgeted for that purpose in fiscal 2012 unless the excess amount is paid from the Mass Transit Account;
- [HB 771](#), which establishes a Mass Transit Trust Fund in MDOT. This fund is to be the sole source of funding for operating and capital expenses of MTA, WMATA, and grants to local jurisdictions for transit operating and capital expenses. The department is to identify and establish a separate funding source for mass transit in the State; and
- [SB 1013](#), which establishes a Mass Transit Account in the TTF that receives revenues from increased transit fares, a county transportation property tax, or a county motor fuel tax. Those counties served by

either MTA or WMATA may impose the county transportation property tax and the county motor fuel tax. The revenue from these taxes may only be used to fund transit facilities or service in the county where collected. The percentage of the TTF that may be used for transit services, other than revenue to the Mass Transit Account, declines under this bill from 44.36% in fiscal 2014 to 37.8% in fiscal 2018 and subsequent years, and the percentage of the TTF, other than revenue to the Mass Transit Account, increases under this bill from 26.71% in fiscal 2014 to 33.55% in fiscal 2018 and subsequent years.

Public-private Partnerships (P3s)

[SB 538/HB 560](#), Administration bills, establish a State policy on the use of public-private partnerships (P3s) and expressly authorize specified State agencies to enter into P3s. The bills establish a process and associated reporting requirements for State oversight of P3s and institute a process for both solicited and unsolicited P3 proposals that must be followed before the Board of Public Works may approve a P3 agreement.

A “public-private partnership” is defined as a method for delivering public infrastructure assets using a long-term, performance-based agreement between specified State “reporting” agencies and a private entity where appropriate risks and benefits can be allocated in a cost-effective manner between the contract partners, in which:

- a private entity performs functions normally undertaken by the government, but the reporting agency remains ultimately accountable for the public infrastructure asset and its public function; and
- the State may retain ownership of the public infrastructure asset and the private entity may be given additional decision-making rights in determining how the asset is financed, developed, constructed, operated, and maintained over its life cycle.

A “public infrastructure asset” is a capital facility or structure, including systems and equipment related to the facility or structure intended for public use.

Only reporting agencies identified in the bill may establish a P3. These are the Department of General Services, which oversees building purchases and leases for most of State government, the Maryland Department of Transportation, the Maryland Transportation Authority, and State higher education institutions.

Oyster Shells – Recycling

[SB 484/HB 184](#) create a nonrefundable tax credit against the State income tax equal to \$1.00 for each bushel of

oyster shells recycled during the taxable year, not to exceed \$750 per tax return. The bill takes effect July 1, 2013, and applies to tax year 2013 and beyond.

GAMING, RACING, AND SPORTS

Purchase of Lottery Tickets Online

The Senate gave preliminary approval to [SB 272](#). As amended, the bill prohibits the State Lottery Agency from allowing a person to purchase a State lottery ticket through an electronic device that connects to the Internet.

HEALTH CARE AND HEALTH INSURANCE

Bona Fide Wellness Program

Crossfiled bills [SB 224/](#)[HB 391](#), heard recently by legislative committees, create a “bona fide wellness program” for State employees and retirees. The Secretary of Budget and Management, in consultation with the Secretary of Health and Mental Hygiene, must develop and implement a program (State plan). The bills also require consideration of merging sick leave and annual leave into a single leave benefit for State employees and of including a high deductible health plan with a health savings account as an option in the State plan.

Additionally, the program must include a health risk assessment for all State plan enrollees and aim to achieve savings in the State plan over time that exceed the costs of the program, among other requirements. The program may include incentives for achieving health goals, including discounted premiums, waivers of cost-sharing mechanisms, and additional benefits. A report is due on implementation of the legislation by January 1, 2014.

At least 20 states have some type of wellness program for public employees. Typically, employees participate in a screening that focuses on key health measures such as body mass index, smoking, blood pressure, cholesterol, and physical activity. Many states offer participants premium discounts, while some offer cash incentives for participation or measurable improvement on specific health indicators.

REAL PROPERTY, ESTATES, AND TRUSTS

Land Use – Direct Judicial Review

Heard recently in a House committee, [HB 256](#) specifies, under provisions applicable to jurisdictions other than

Montgomery and Prince George’s counties, that a person aggrieved by a development rights and responsibilities agreement may not file an administrative appeal and may seek direct judicial review of the agreement in circuit court by filing a request with the circuit court of the county. The judicial review must be in accordance with Title 7, Chapter 200 of the Maryland Rules.

Solar Energy Grant Program

[SB 136](#) received an unfavorable committee report. The bill would have expanded the stated purpose of the Solar Energy Grant Program to include providing grants to cooperative housing corporations, councils of unit owners of condominiums, and homeowners associations for a portion of the costs of acquiring and installing photovoltaic property and solar water heating property.

TRANSPORTATION

Cell Phones

Heard by a committee this week, [SB 339](#) specifies that the prohibition against the use of a wireless communication device by a driver younger than age 18 applies to operating a motor vehicle in the travel portion of the roadway. Primary enforcement is authorized, as the provision limiting enforcement to a secondary action is repealed.

The bill also expands, to the travel portion of the roadway, the prohibition against using a handheld telephone by the operator of a school vehicle that is carrying passengers and for fully licensed adult drivers, except as specified. Primary enforcement for the operators of school vehicles and adult drivers is also authorized. The House companion bill, [HB 753](#), is scheduled for a hearing next week.

Drivers Licenses

Testimony was heard this week on [SB 715](#), which expands the authority of the Motor Vehicle Administration (MVA) to issue or renew a driver’s license, identification card, or moped operator’s permit to an individual who does not have a Social Security number or lawful status by repealing a current requirement that the individual must have held one of those documents on April 18, 2009. The bill also repeals the termination date of July 1, 2015, for the authority for MVA to issue or renew one of these documents to an applicant without lawful status or a Social Security number. Under current law, no MVA document issued to, or renewed by, an applicant who cannot provide satisfactory evidence of lawful status or a valid Social Security number is valid beyond July 1, 2015. The companion bill is [HB 789](#).

Speed Cameras

Recently considered by a committee, [SB 207](#) alters the definition of a “recorded image” as it applies to speed monitoring and work zone speed control systems to require the inclusion of sufficient information to allow for the calculation of the speed of a motor vehicle based on the two currently required time-stamped images. A local government must apply markings on the portion of the roadway on which violations are recorded by a speed monitoring system to aid in the calculation.

The bill also restricts the implementation of speed monitoring systems in school zones so that they may be used only near elementary and secondary schools. A speed monitoring system in a school zone must be placed within 500 feet of the school property. Finally, the bill alters the prohibition on the payment to contractors of a fee contingent on the number of citations issued or paid by specifying that the prohibition applies to contractors that administer and process civil citations.

Under current law, a recorded image is defined as an image recorded by a speed monitoring or work zone speed control system on a photograph, microphotograph, electronic image, videotape, or any other medium that shows the rear of a motor vehicle, at least two time-stamped images of the motor vehicle that include the same stationary object near the motor vehicle, and, on at least one image or portion of tape, a clear and legible identification of the entire registration plate number of the motor vehicle.

Other measures that deal with speed monitoring devices were also heard by a committee this week:

- [SB 389](#) alters the requirements for persons who may sign a statement that alleges a violation of highway speed laws, including a work zone speed violation, to include any authorized person specially trained in speed monitoring system enforcement and not necessarily a law enforcement officer. These individuals may not receive any payment for services from the contractor that operates a speed monitoring system for a local jurisdiction or police department; and
- [SB 785](#) repeals the authorization for the use of speed monitoring and work zone speed control systems.

Legislators will hear testimony in coming weeks on additional bills ([HB 166](#) , [HB 251](#), [HB 421](#), [HB 435](#), [HB 929](#), and [HB 1103](#)) concerning speed control monitoring devices.

Failed Bills

A House committee voted unfavorably on [HB 619](#) (failed). The bill would have established a maximum speed limit on the Intercounty Connector (ICC) highway of 60 miles per hour. The companion bill, [SB 206](#), remains in a Senate committee.