



The Legislative Wrap-Up

Library and Information Services, Department of Legislative Services

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GREEN BAG APPOINTMENTS

Today, Green Bag nominations were submitted to the Senate. The majority of nominations of civil officers require Senate confirmation. These names are sent as a group to the Senate by the Governor prior to the 40th day of each session, pursuant to the Maryland Constitution, Article II, Section 13. It has become a tradition in Maryland for the list to be presented in a green leather bag; thus, the phrase “Green Bag appointments.” The green leather bag, embossed with the Maryland Great Seal, is modeled on the green bags used by English barristers of old to convey official documents. Except for the annual presentation ceremony, the Green Bag resides in the State Archives.

COURTS AND CIVIL PROCEEDINGS

Medical Malpractice

Current law prohibits the evidentiary use of an expression of regret or apology made by or on behalf of a health care provider in a civil action against the provider, with an exception that permits evidentiary use of admissions of liability or fault that are made as part of, or in addition to, an expression of regret or apology. [SB 358](#), recently before a committee, repeals the exception.

CRIMES, CORRECTIONS, AND PUBLIC SAFETY

Human Trafficking

Human trafficking legislation was discussed this week and last week in committee hearings.

- [SB 261/HB 283](#) expand the crime of human trafficking by:
 - subjecting individuals who knowingly aid, abet, or conspire in the violation of human trafficking laws or knowingly benefit financially from ventures or activities in violation of State human trafficking laws to the same penalties imposed on a person who violated the applicable statute;

- changing from a misdemeanor to a felony the current prohibition on knowingly taking or detaining another with the intent to use force, threat, coercion, or fraud to compel the other to marry the person or a third person or perform specific sexual acts;
- including prohibitions on forced participation in a “sexually explicit performance” and interference with another’s possession of various types of identification documents while violating or attempting to violate State human trafficking laws; and
- clarifying that in a prosecution for sexual solicitation or human trafficking of a minor, the State need only prove that a reasonable person, based on the totality of the circumstances, should have known that the minor had not attained the age of 18 years at the time the offense was committed; and
- [SB 463/HB 514](#) prohibit a person from knowingly recruiting, harboring, transporting, providing, or obtaining a person for labor or services and subjecting the person to involuntary servitude or debt bondage through force, fraud, or coercion. State or local law enforcement is authorized to seize property in connection with a violation, and procedures for property forfeiture are established in the bills. The legislation also creates the Anti-Human Trafficking Fund to benefit victims of the crime and organizations and law enforcement agencies that combat human trafficking.

Other legislation, scheduled for a hearing next week, requires the Department of Health and Mental Hygiene to adopt regulations that require the posting of notices in buildings and commercial establishments that give the phone number for and other information about the National Human Trafficking Resource Center Hotline ([SB 542](#)). The companion bill is [HB 1322](#).

Child Abuse

Testimony was heard this week on [HB 523](#), known as Justice’s Law, that increases the maximum imprisonment penalties for first degree child abuse that results in the death of a victim and for a subsequent

conviction of first degree child abuse that results in the death of the victim from a maximum of 30 years to a maximum of life imprisonment.

Office of the Public Defender

The House amended and passed [HB 122](#), which expands the Board of Trustees of the Office of the Public Defender from 3 to 13 members, alters Board appointment provisions, and alters the authority of the Board to remove the Public Defender by requiring a vote of at least 7 members and allowing removal only for specified causes. Provisions to allow the Governor to remove the Public Defender were deleted.

ECONOMIC AND BUSINESS ISSUES

Utility Regulation

Senate and House committees heard testimony this week on Administration bills, [SB 282/HB 468](#), that set conditions for the creation of future offshore wind facilities in Maryland. The bills require that a certificate of public convenience (CPCN) be obtained from the Public Service Commission before construction or installation of a qualified submerged renewable energy line or before exercising a right of condemnation. A qualified submerged renewable energy line is a buried line that carries electricity and connects an offshore wind facility to the electric grid.

Other Administration bills heard this week make changes to the Renewable Energy Portfolio Standards (RPS). [SB 277/HB 471](#) increase the amount of electricity required to be generated from solar sources between 2011 and 2020, as well as increase the amount charged to electricity suppliers for solar energy shortfalls.

Labor and Employment - Credit Checks

Moving through the hearing process this week and next, [HB 175](#) and [SB 312](#) prohibit an employer from using an individual's credit report or credit history as a basis to deny employment to a prospective employee, discharge an employee, or determine compensation or other conditions of employment. An employer may check credit history information if they are a financial institution under the jurisdiction of a federal agency or if they are required to do so under federal or State law.

A hearing has not yet been scheduled for a related bill, [SB 110](#), which prohibits employers from requesting credit histories of employees and prospective employees unless the information is sought for bona fide work-related purposes or to comply with federal or State law.

Under the bill, employers may not deny employment or discharge an employee because of a credit report.

EDUCATION

Comprehensive Master Plans

The Senate passed [SB 74](#) that requires local boards of education to continue submitting annual updates to their master plans in 2010 and 2011, but delays the requirement that they submit a new five-year comprehensive master plan from 2010 until 2012. Additionally, the bill authorizes a board to submit a preexisting plan in lieu of a comprehensive master plan if the preexisting plan meets the criteria of the master plan. The bill sets a later date for creating new plans out of concern that the reauthorization of the federal Elementary and Secondary Education Act and the national standards movement may change federal education requirements.

Maintenance of Effort

To be eligible for increases in State education aid under Maryland law, a local jurisdiction must provide at least as much funding per pupil to the local school system as it provided in the previous fiscal year or face a penalty of withheld State funds. This is known as "maintenance of effort." State law also allows jurisdictions to request a waiver from the State Board of Education which had not previously been used until this year. Three counties requested waivers, but none were granted.

In response to the controversy that followed, [SB 476](#), heard by a committee this week, waives the fiscal 2010 county maintenance of effort (MOE) penalty for public education. The bill also requires the Senate Budget and Taxation Committee and the House Ways and Means Committee to study the appropriate calculation of the penalty for failing to meet the MOE requirement and the appropriate party against whom the penalty should be applied.

Additional bills concerned with MOE requirements will gather public testimony on February 24. These include [SB 310/HB 304](#), [HB 410](#), [HB 632](#), [SB 403](#), and [HB 223](#).

Maryland Longitudinal Data System

An Administration measure, [SB 275](#), establishes the Maryland Longitudinal Data System Center, as a new independent unit of State government responsible for setting up a Maryland Longitudinal Data System repository by the end of 2014. The bill requires the repository, a collaborative effort of the State Department of Education, the State's public higher education institutions, and the Department of Labor, Licensing,

and Regulation, to contain individual-level student data from all levels of education and the State's workforce. In compliance with federal privacy laws, users will be able to effectively organize, manage, disaggregate, and analyze individual student data and to examine student progress and outcomes over time, including preparation for postsecondary education and the workforce. The companion, [HB 467](#), has a hearing next week.

Safe Schools Act of 2010

[HB 1160](#), introduced this week, calls for increased sharing of information among courts, law enforcement agencies, and schools regarding juvenile delinquency, criminal activity, and suspected gang activity by students. The bill also prohibits a student who is convicted or adjudged delinquent for rape or a sexual offense from attending the same school or riding the same school bus as the victim. A local school superintendent and school principal have the authority to consider prohibiting a student who is arrested for a reportable offense from attending the same school or riding the same school bus as the alleged victim if such action is necessary or appropriate to protect the physical or psychological well-being of the alleged victim. As well, each county board of education must establish a policy to address gangs and gang-like activity in schools based on a model policy that the State Board of Education is required to develop by January 1, 2011.

Expanded Reportable Offenses and Reporting to Authorities

This week, a committee listened to testimony on [SB 360](#) that expands the list of crimes that, when committed by a student, a law enforcement agency must report and to whom they must report. The bill requires a law enforcement agency to notify both the superintendent and the school principal of these reportable offenses, rather than just the superintendent as prescribed by current law. A law enforcement agency must also report the arrest of a student who attempted to commit any of the specified crimes. State's Attorneys must likewise notify superintendents and principals of the dispositions of any reportable offenses. A similar House measure, [HB 1165](#), is not yet scheduled for a hearing.

Higher Education – Tuition Stabilization and Funding

In-state tuition for undergraduates attending University System of Maryland institutions was frozen over the last several years from fiscal 2007 through fiscal 2010. In the fiscal 2011 budget, the Governor has proposed to allow tuition rates to increase 3.0% and to provide additional State funds to moderate further tuition increases. Administration bills, [SB 283/HB 470](#), both before committees this week, establish a new Tuition

Stabilization Trust Account within the Higher Education Investment Fund to retain revenues for stabilizing tuition costs for resident students.

In years of increasing corporate income tax revenues, a portion of these revenues would be deposited into the trust account and may only be used to stabilize tuition. The bills also provide that any increase in resident undergraduate tuition and fees at public institutions of higher education in any given year should not exceed the percent increase in the three-year rolling average of the State's median family income. This links tuition increases to a measure of affordability for families. According to the bills' fiscal note, from 2006 to 2008, the percent increase of the State's median family income was 4.1% compared to the average median family income from 2005 to 2007.

Maryland Football Act

The Maryland Football Act ([HB 482](#)) requires the University of Maryland, College Park (UMCP) to schedule and play a regular season football game at least once every four years against Morgan State University (MSU) and Towson University (TU). The football games may be played on the campus of either of the competing institutions, or at a neutral site in the State as mutually agreed upon. Due to the relative size and competitiveness of their athletic programs, UMCP will pay MSU and TU a fee from its auxiliary funds for the required games, which will be auxiliary revenues for MSU and TU. The companion bill is [SB 705](#).

ENVIRONMENT, NATURAL RESOURCES, AND AGRICULTURE

Aquaculture

[HB 89](#) has moved to the House floor. Amended to conform to the crossfiled [SB 3](#), the bill exempts aquaculture activities, including oyster farming, from fees for applications to the Maryland Department of the Environment (MDE) for wetlands and waterway permits or to the Board of Public Works for a wetlands license; and requires the Aquaculture Advisory Council to report to MDE and the General Assembly by October 1, 2013, on the status of commercial aquaculture in the State and the fiscal impact of the fee exemptions.

Hunting and Fishing - Constitutional Amendment

[SB 33](#) (failed) has received an unfavorable committee report. The bill would have proposed a constitutional amendment to give every person the right to hunt, fish, or harvest wild game, subject to regulatory and statutory restrictions.

Vessel Noise - Limitation

On Friday, the Senate passed [SB 70](#) that reduces the maximum allowable noise level for vessels on State waters with engines manufactured on or after January 1, 1993. The bill also clarifies that required engine noise suppression devices must be constantly operated and functioning, and that specified vessels may not be equipped with equipment that reduces the effectiveness of engine noise suppression devices. An amendment provides that a warning be given for a first offense. Violators incur fines and other penalties for second and subsequent offenses. The bill is based on model legislation developed by the National Association of State Boating Law Administrators with support from the U.S. Coast Guard and the National Marine Manufacturers Association.

Chesapeake Conservation Corps

[SB 311](#) establishes a Chesapeake Conservation Corps to, among other purposes, provide young adults with meaningful service opportunities and undertake projects and activities that meet an identifiable public need, with emphasis on projects that result in long-term preservation, protection, and conservation of the environment, in areas including environmental, agricultural and forestry, infrastructure, and educational improvements. The companion bill is [HB 943](#).

The corps must develop a full- and part-time public service program. Corps projects may not replace workers or duplicate or replace an existing service in the same locality.

FISCAL MATTERS

The Sustainable Communities Act of 2010

Administration legislation, [SB 285/](#)[HB 475](#), reestablishes the Heritage Structure Rehabilitation Tax Credit Program as the Sustainable Communities Tax Credit Program. The bills transform the program into a traditional tax credit program not subject to an annual appropriation, increase funding for the program by authorizing the Maryland Historical Trust to award \$50 million in credits in fiscal 2011 through 2013, and alter eligibility requirements for the program. Additionally, the legislation expands and alters eligibility requirements for the program including allowing nonhistoric properties to qualify for the credit. The bill also makes several changes to other State programs, including the Community Legacy and Designated Neighborhood Programs. The Senate bill had a hearing this week.

Maryland Clean Energy Incentive Act of 2010

[SB 287](#), an Administration bill, extends the termination date of the clean energy incentive tax credit to December 31, 2015. The bill also extends to January 1, 2016, the date by which a facility must begin producing qualified energy in order to claim the credit. The companion is [HB 464](#).

Tax Credit for Electric Vehicles

Committee testimony taken on the Senate side examined an Administration bill, [SB 281](#), to create a tax credit for the purchase of qualified plug-in electric vehicles equal to 100% of the State vehicle excise tax imposed, not to exceed \$2,000. The credit applies to qualified vehicles purchased beginning October 1, 2010, through June 30, 2013. [HB 469](#) is the companion.

Homestead Tax Credit - Extension to Second Property

[SB 232](#) extends the homestead property tax credit to a homeowner's second dwelling if the second dwelling is at least 90 miles away from the first dwelling receiving the credit, and the homeowner satisfies all other eligibility criteria. The bill was before a committee this week.

Sales and Use Tax – Exemption – College Textbooks

[HB 16](#) exempts the sale of specified textbooks bought by a full- or part-time student enrolled at an institution of higher education from the State sales and use tax. Full- or part-time students must produce a valid student identification card at the time of purchase. A textbook is defined as a book written, designed, and produced for educational, instructional, or pedagogical purposes, and required for a course at an institution of higher education.

HEALTH CARE AND HEALTH INSURANCE

Health Insurance - Child Dependents

[SB 181](#), heard by a Senate committee on February 3, increases the age limit for an individual to be considered a child dependent under policies issued by insurers, nonprofit health service plans, and HMOs from younger than age 25 to younger than age 30. Currently, young adults age 19 through 29 are the largest growing age group in the country at risk of being uninsured. The bill applies to all policies, contracts, and health benefits plans issued, delivered, or renewed in the State on or after October 1, 2010.

Bisphenol-A

[HB 33](#), concerning the prohibition of Bisphenol-A (BPA) in certain children's products, has passed the

House. Amendments prohibit certain BPA levels from being in children's cups intended for food or liquid for children under 4 years of age. The bill's former provisions were similar, but also included products designed for "sucking and teething." Another amendment also requires that the term "child care article" be defined by federal law, should a federal law concerning the prohibition of BPA in children's products be enacted. A further revision changes the date from January 2011 to January 2012, after which child care products specified in the bill may not be manufactured.

Assignment of Benefits

SB 314 was heard by a Senate committee this week. The bill prohibits carriers from refusing to honor an assignment of benefits to a health care provider. "Assignment of benefits" means the transfer of health care coverage reimbursement benefits or other rights under a health benefit plan by an insured, subscriber, or enrollee to a health care provider. Under the bill, the only health care providers affected are physicians.

The legislation also imposes billing, disclosure, and payment rate requirements for physicians in cases where they are considered out-of-network by a health insurance carrier. Penalties apply in some cases. In addition, the bill requires a study of the impact of the bill and submission of a final report to the General Assembly by October 2014.

During the 2009 legislative session, legislation was introduced to require carriers to honor an assignment of benefits. Although neither bill became law, a legislative committee studied the benefits, costs, and other policy issues associated with the assignment of benefits and developed a proposal for assignment of benefits. **SB 314** and **HB 147**, the companion measure, are largely based on the committee's proposal.

In Vitro Fertilization - Expanded Coverage

After a clarifying amendment was adopted, the Senate gave preliminary approval to **SB 27** that expands the grounds on which a couple may qualify for mandatory health insurance coverage of in vitro fertilization (IVF) services to include the fertilization of a patient's eggs with donor sperm if the patient's spouse is unable to produce sperm due to nonobstructive azoospermia and the patient has a history of ovarian hyperstimulation syndrome. Earlier in the week the bill failed to pass on third reading, but a procedural move was made to reconsider the vote.

Breast Cancer Screening

This week **HB 182** (failed) received an unfavorable House committee report. The bill would have required

insurers, nonprofit health service plans, and HMOs to provide coverage for breast cancer screening in accordance with screening guidelines of the American Cancer Society, as the screening guidelines existed on January 1, 2010.

HUMAN RESOURCES

HB 343 prohibits State agencies and local governments from providing undocumented immigrants with federal, State, or local public benefits, with specified exceptions and unless the benefits are required under federal law. The bill, which was heard recently in committee, requires each State unit or political subdivision to verify the lawful presence status of an adult before providing most public benefits and makes it a misdemeanor to provide a false, fictitious, or fraudulent statement or affidavit.

REAL PROPERTY, ESTATES, AND TRUSTS

Foreclosure and Mediation

This week, United States Representative Elijah Cummings (D-Baltimore) joined Governor Martin O'Malley in testifying before Senate and House committees concerning emergency Administration bills directed at helping homeowners with pending foreclosure actions. **SB 276/HB 472** require a loan modification review to be performed before the filing of an order to docket or complaint to foreclose a mortgage or deed of trust on residential property. The bills require a secured party, loan servicer, or other agent to file an affidavit stating that a loan modification review has been completed and the reason(s) for denying a loan modification; or that the review cannot be completed because the borrower repeatedly failed to engage in the process.

Under the legislation, a borrower may request a foreclosure mediation session if the borrower contests any reason for being denied a loan modification or other loss mitigation. The bills impose a \$100 filing fee that may not be passed on to the borrower to help defray the costs of providing foreclosure mediation and housing counseling services.

Mobile Home Residents – Relocation Plans

Committee members heard testimony on **SB 235/HB 103** that require a mobile home park owner in Maryland to include a relocation plan for dislocated residents with an application to change the land use of a park. A plan to close a mobile home park must include a budget that reflects the amount of relocation assistance to be paid by the park owner to each household. A local governing

body cannot require, as a condition of approving any relocation plan, that an affected resident receive relocation assistance that exceeds 10 months' rent. Similar bills were considered in 2009. There are currently 493 parks in Maryland with a total of 17,987 pads.

STATE GOVERNMENT

The Senate passed [SJ 5](#), which, as reported from committee, rejected the salary recommendation of the General Assembly Compensation Commission for members of the General Assembly and instead maintained the annual salaries, set in 2006, over the next four-year term. The resolution also was amended to reject the Commission's travel, pension, and retirement recommendations, leaving those at the levels set in 2002.

After extensive debate on several proposed floor amendments related to further reductions in salary levels and the restructuring of the legislative pension plan, senators adopted a floor amendment related to pension benefits. The amendment prevents members, former members, or their beneficiaries from collecting pension benefits, if the member is convicted of a felony or enters a plea of nolo contendere to any crime that is a felony, or that is a misdemeanor related to the member's public duties and responsibilities and involves moral turpitude for which the penalty may be incarceration in a penal institution.

New State Designations

If [HB 296](#) is approved by lawmakers, Sassafras sandy loam will be designated as the official State soil, following the lead of the U.S. Department of Agriculture that has categorized the Sassafras soil series as the official State soil of Maryland. The department has designated for each state a state soil that has special significance to that state, 19 of which have been legislatively established. Since the adoption of the Maryland State Flag in 1904 and the Black-Eyed Susan as the State flower in 1918, the State has adopted 22 additional official symbols.

Several other proposed designations have also had hearings or are scheduled for public testimony in coming weeks. These measures seek to establish an observance of American Legion Day on September 16 of each year ([SJ 3](#)); Hispanic Heritage Month from September 15 to October 15 of each year ([SB 415/HB 34](#)); and Sickle Cell Anemia Awareness Month as the month of September each year ([SB 964/HB 333](#)).

[SB 715/HB 910](#) proclaim the first Sunday in June each year as the day to honor fire, rescue, and emergency

services workers who made the ultimate sacrifice in the performance of their duties. The bills also require the State flag to be flown at half-staff on that day. Other legislation recognizes the positive contributions that minors have made to society through a Young Heroes Day on the first Monday of October ([SB 134/HB 684](#)).

Two measures with slightly different provisions establish a commemorative day for Earth Hour by designating an evening in March during which the lights in the Governor's Mansion and the State House would be turned off from 8:30 p.m. to 9:30 p.m. ([HB 1045](#) and [HJ 9](#)).

TRANSPORTATION

Texting While Driving

Current law prohibits writing or sending a text message while driving, but does not address reading text messages. [HB 192](#) extends existing law so that drivers may not read a text message while driving. The prohibitions on texting do not apply to using a global positioning system (GPS) or contacting a 9-1-1 emergency system. A total of 19 states and the District of Columbia ban texting while driving. Violation of [HB 192](#) is a misdemeanor punishable by a fine of \$500. A House committee heard testimony on the bill earlier this month.

Speed Cameras

[HB 143](#) (failed), which would have required that speed cameras record images of vehicles speeding through work zones if a worker was present, was voted down in committee.