

# 'Vanilla' Attorney General Seeking Flavor of Fourth Term

## Curran Excited About Tobacco Litigation

By PHILIP P. PAN  
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Some time soon, Maryland Attorney General J. Joseph Curran Jr. expects to make the most difficult decision of his long tenure in office, a choice that carries the promise—and threat—of defining his 40-year career in state politics.

If the nation's tobacco companies offer to settle Maryland's lawsuit against the industry as anticipated before year's end, it will be Curran who must decide whether to accept their terms or gamble for more by pressing ahead with a full-blown trial in April.

The stakes could hardly be higher: as much as \$13 billion in potential damages, industry restrictions that might one day prevent thousands of smoking-related deaths a year and his reputation as "the people's lawyer."

Even if he fails in his bid to be the first attorney general ever elected to four terms in Maryland, Curran will remain in office through the end of the year—and a settlement offer is expected by then. It is a rare moment in the spotlight for Curran, a soft-spoken Baltimore Democrat who acknowledges he is as "vanilla" as politicians come.

"This is exciting. This is something where I can really say I've made a difference," he said recently. "It's a high-stakes game, no question. The main thing is we have a strong case, we hold a good hand and we're ready to play this hand if we have to."

Curran, 67, one of the most entrenched Democrats in the state, is heavily favored to win reelection Nov. 3 against Paul H. Rappaport, the former Howard County police chief best known as GOP gubernatorial candidate Ellen R. Sauerbrey's 1994 running mate.

Curran, who was elected to the General Assembly in 1958, built a reputation over four decades as one of the most liberal and mild-mannered politicians in the state. And in the last 12 years, he has shaped the attorney general's office to reflect both his values and his personality.

His more dynamic predecessor, Stephen H. Sachs, emphasized criminal prosecutions and courted the media as he prepared a bid for governor; Curran has labored quietly on issues such as consumer protection, the environment, child abuse, domestic violence and

abuse of the elderly by nursing homes and con artists.

"There's an image of political figures of flash and dash. That's not Joe Curran. He's not a yeller or a self-promoter," said Ralph S. Tyler III, a former deputy who served under both Sachs and Curran. "If you look at the substance rather than the headlines, if you look at his body of work, it's exceedingly impressive. He really is the Cal Ripken of attorneys general."

The climax of Curran's long, steady career could be the 1996 lawsuit seeking to recover billions in Medicaid costs incurred in treating smoking-related illnesses. Some 40 states have filed similar suits, but Maryland was among the first. Since then, Curran has staked out a national reputation as one of the attorneys general who have been toughest on the industry.

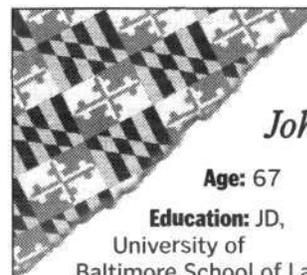
When the industry reached a \$368 billion settlement deal with the states last year, Curran was among the first to say it was not enough. He criticized limits on the Food and Drug Administration's power to regulate nicotine as well as a provision that would have granted the industry immunity from class action lawsuits.

"There's been a lot of pressure to settle, but I think Curran is one of a small group who went into this thing because they thought it was right and who have stuck with it," said Richard A. Daynard, a law professor who heads Northeastern University's Tobacco Litigation Project and is a member of Maryland's legal team.

When a Baltimore judge dismissed nine of the Maryland lawsuit's 13 counts last year, Curran responded by going to the General Assembly and pushing a bill that effectively rewrote state law and reversed the ruling. The battle dominated this year's legislative session, with Curran and Gov. Parris N. Glendening (D) barely prevailing over the tobacco lobbyists and business groups fighting the bill.

House Minority Whip Robert L. Flanagan (R-Howard) criticized Curran's maneuver, saying it called into question the integrity of the judicial process.

"People need to know they can go to court and the process will be fair," Flanagan said. "This was a serious mistake, just another example of how Curran forgets his role as an impartial legal adviser.



## Maryland '98

### John Joseph Curran Jr. (D)

**Age:** 67

**Education:** JD, University of Baltimore School of Law, 1959.

**Military service:** Joined the U.S. Air Force in 1951, spent 2½ years in Japan and Korea during Korean War. Staff sergeant in charge of operations and supply for a tow target outfit.

**Family:** Married, five children.

**Career:** Attorney general, 1987-present; lieutenant governor, 1983-1986; state senator, 1963-1982; member of Maryland House of Delegates, 1959-1962; practicing trial attorney, 1960-1982.

**Political heroes:** John F. Kennedy; William Donald Schaefer; J. Joseph Curran Sr.



**Defining moment:** His wedding day.

**Outside of politics:** Spending time with his five grandchildren; gardening; exploring the Internet.

**Quote:** "I go to work every day to make sure people's lives are better tomorrow."

### Paul Harry Rappaport (R)

**Age:** 64

**Education:** B.A., University of Baltimore, 1972; J.D., University of Baltimore School of Law, 1974.

**Military service:** U.S. Army, 1957 to 1959; drafted from the state police corps. Rank: corporal. Served in the military police in Fort Gordon, Ga., and Fort Meade, Md.

**Family:** Married, three children.

**Career:** Lawyer in private practice since May 1987; Howard County chief of police, 1979 to May 1987; Maryland State Police, 1951 to 1979, retired as major and commander of the State Police Criminal Investigation Command.

**Political hero:** Ronald Reagan.

**Defining moment:** Being named Ellen R. Sauerbrey's running mate in 1994.



**Outside of politics:** Traveling with wife; has pilot's license.

**Quote:** "We have to control crime, and we have to do it by attacking the criminals."

In critical situations, he resorts to partisan politics."

Now, Maryland's case is set for trial in less than six months. Legal observers consider it one of the strongest in the nation, because of the new law and because Curran retained veteran plaintiffs' lawyer Peter G. Angelos, who is footing litigation costs in exchange for 12.5 percent of any judgment.

But as the trial approaches, Curran's options are complicated by the fact that several other states—including many with weaker cases—are negotiating a new national settlement, one that public health advocates fear will impose fewer advertising limits than last year's failed deal.

If many states accept the new proposal, Curran could be forced to choose between a deal he does not like and going to trial against an industry that will be free to focus its resources against him.

"It's a very real possibility they could go down in flames," said George Nilson, one of the tobacco industry's attorneys. "He could become known forever as the attorney general who turned down

\$4 billion and ended up with zero."

Curran's Republican opponent, Rappaport, has criticized the state's lawsuit against tobacco companies but says he would not drop it. Anti-smoking forces already consider Curran a hero.

"It's disappointing that Maryland might get pressured into a settlement because the other attorneys general aren't as passionate as Joe Curran, but we're very confident in him," said Eric Gally, lobbyist for the American Heart Association. "He might sign a settlement that isn't our choice, but we'll always be with him."

Such faith speaks to Curran's reputation as Maryland's liberal political conscience.

Curran's father was a longtime City Council member, and the son benefited greatly from the father's name and political organization in northeast Baltimore's Irish Catholic neighborhoods when he entered politics while a law student.

But Curran has repeatedly taken positions that angered his neighbors. His vote for Medicaid funding of abortion prompted his

own parish priest to denounce him from the pulpit. His support for fair housing laws led to picketing outside his home.

Perhaps Curran is best known for advocating gun control long before it became fashionable. He helped put in place a seven-day waiting period to buy a handgun nearly three decades before the Brady bill passed. In 1988, he led a tough fight to ban the sale of cheap handguns in the state.

As attorney general, Curran drew criticism from the church again when he issued important opinions in the late 1980s allowing relatives and other designees to make end-of-life medical decisions, such as to remove feeding tubes.

About the same time, he joined a multi-state antitrust lawsuit against the insurance industry, a move that led then-Gov. William Donald Schaefer (D) to label him anti-business. The two have mended relations, but the label lingers.

Indeed, while Rappaport has attacked Curran for not doing enough to fight crime, it is his anti-business charge that is re-

peated most by others. Champe C. McCulloch, president of the Maryland Chamber of Commerce, blames Curran for failing to ease the state's regulatory environment.

But McCulloch adds that Curran "hasn't really done a lot very negative or positive for the business community." He said Curran only inspired anger when he pushed for the law that improved Maryland's chances of winning the tobacco lawsuit—and sent a "disastrous" message that the state could change the rules on businesses in the middle of litigation.

Curran rejected any suggestion that he is anti-business, arguing that his antitrust and consumer efforts actually improve the business climate. And he refused to apologize for the tobacco measure, which he said does nothing more than target a "rogue industry" that itself has been targeting children for years.

"If I can cut down on the 7,500 Marylanders who die each year from smoking, that would be a wonderful legacy," he said.