

## Part C

# State Government

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### State Agencies, Offices, and Officials

#### StateStat

As part of the Managing for Results process, each Executive Branch agency is required to submit a strategic plan to the Secretary of Budget and Management in conjunction with its budget submission. The plan must include a description of the agency's goals and objectives and contain statistics documenting the agency's progress toward meeting them. The Secretary of Budget and Management reviews each agency's strategic plan annually and may recommend appropriate changes to an agency's budget.

*House Bill 137 (Ch. 7)* establishes another management accountability process for State agencies that relies on databases to track agency performance and redirect resources to areas in need. The program, known as StateStat, is expected to facilitate and accelerate the achievement of the Managing for Results goals and objectives. *House Bill 137* authorizes the Governor to direct a State agency to participate in the StateStat process. Each agency selected to participate in StateStat must:

- regularly and frequently:
  - submit timely and accurate data;
  - review and analyze its submitted data; and
  - attend accountability meetings to assess its performance;
- continuously review its strategies and tactics to meet its goals; and
- continuously assess its progress toward meeting its goals.

In conducting its audits of Executive Branch agencies, the Office of Legislative Audits is authorized to determine the reliability of an agency's performance measures identified in its strategic plan.

## Executive Branch Appointments

For purposes of the State's personnel law, "appointing authority" means an individual or unit of government that has the power to make appointments and terminate employment. Regulations provide that an appointing authority, head of a principal unit, and management have exclusive authority to:

- appoint, promote, transfer, reassign, discipline, and terminate employees under the appointing authority's jurisdiction; and
- delegate, in writing, the authority to act on the appointing authority's behalf to any other employee or officer under the appointing authority's jurisdiction.

Regulations further provide that, unless otherwise provided by law, an appointing authority may not delegate the authority to make the final decision regarding disciplinary termination of a nontemporary employee. An appointing authority must notify the Secretary of Budget and Management of any delegation of authority by providing a copy of the delegation.

During the 2005 interim, the Legislative Policy Committee appointed a Special Committee on State Employee Rights and Protections to examine numerous matters regarding terminations and separations of at-will employees. In the fall of 2006, the committee concluded its proceedings and issued a final report. Among other recommendations, the committee proposed legislation to:

- clarify the law to emphasize that only the lawfully designated appointing authority of a State employee may terminate that employee; and
- clarify the law to state that neither the Governor's Office nor the Governor's Appointments Office may utilize the Department of Budget and Management to effectuate separations.

*Senate Bill 50/House Bill 161 (both passed)* prohibit the Governor's Appointments Office from directing or overruling an appointing authority, the Secretary of Budget and Management, or any unit in that department regarding a decision to appoint, promote, transfer, reassign, discipline, or terminate an employee under the appointing authority's jurisdiction. The bills specify that only an appointing authority may delegate authority to act on its behalf, but only to an employee or officer under the appointing authority's jurisdiction. An appointing authority may not delegate the authority to make the final decision on the termination of an employee.

## New Units of State Government

### Base Realignment and Closure Subcabinet

In 1990, Congress created a process known as Base Realignment and Closure (BRAC) to address an excess capacity of military facilities. BRAC allows for the appointment of an

independent commission that evaluates the military’s needs and offers recommendations. The 2005 BRAC represented the first major base closure and realignment activity in 10 years.

*Senate Bill 10 (Ch. 6)* creates a 10-member Base Realignment and Closure subcabinet in State government. The subcabinet is primarily staffed by the Department of Business and Economic Development, but the chair may call on any of the members to provide additional staff assistance as needed. The subcabinet includes the Lieutenant Governor, who serves as the chair, the State Superintendent of Schools, and the secretaries of Budget and Management; Business and Economic Development; Environment; Higher Education; Housing and Community Development; Labor, Licensing, and Regulation; Planning; and Transportation. The subcabinet is required to report to the Governor and the General Assembly annually on State action to support the mission of military installations.

The subcabinet is charged with several tasks, including:

- coordinating and overseeing the implementation of all State action to support the mission of military installations affected by BRAC, including working with Maryland’s congressional delegation to obtain federal funds;
- coordinating and overseeing the development of BRAC-related initiatives in education; workforce readiness; business development; community infrastructure and growth; health care facilities, services, and workforce infrastructure; workforce housing; environmental stewardship; and transportation;
- working with local jurisdictions affected by BRAC to facilitate planning, coordination, and cooperation with the State;
- collaborating with and reviewing the recommendations of the Maryland Military Installation Council; and
- making policy and budget recommendations to the Governor and the General Assembly to strengthen State support of military installations.

#### **Joint Committee on Base Realignment and Closure**

*House Bill 1320 (passed)* creates the Joint Committee on Base Realignment and Closure comprised of six members of the House of Delegates and six members of the Senate. In order to accelerate planning and development so that the State is prepared for the influx of jobs and personnel associated with BRAC, the committee must provide continuing legislative oversight of the State’s response to BRAC-related opportunities and changes. It must also oversee and participate, in cooperation with local and State units, in developing systems and processes that fast track the approval of transportation infrastructure, water and sewer infrastructure, State and local planning processes, affordable housing options, education facilities, including public school and community college construction, and health care facilities and infrastructure.

### **Commission on Civic Literacy**

A civic literacy summit held on January 4, 2007, in accordance with legislation passed in 2006, recommended that a commission be established to continue its work. *Senate Bill 492 (passed)* establishes a Commission on Civic Literacy to promote civic education. The commission must meet at least twice annually, with additional meetings subject to the approval of a majority of commission members. The commission will:

- develop programs to educate students in civic discourse;
- identify and support existing civic education programs in Maryland;
- build professional civic education networks; and
- establish an Internet-based clearinghouse of civic education resources.

The commission is authorized to seek, accept, and use funds or resources from any source. It must report annually on its activities to the Governor and the General Assembly. The bill terminates in 2012.

### **Baby Boomer Initiative Council**

Individuals born between 1946 and 1964 are generally referred to as the baby boomer generation. The U.S. Census Bureau estimates that there were 78 million baby boomers in the United States as of July 1, 2005. According to the Census Bureau, an estimated 7,918 people turned 60 years old each day in 2006, equivalent to 330 people each hour. *Senate Bill 700/House Bill 599 (both passed)* establish a Baby Boomer Initiative Council consisting of representatives of State government and appointed members of the business, education, and aging communities. The council is charged with making recommendations for addressing the needs of the baby boomer population, utilizing baby boomers as a source of social capital, promoting multigenerational civic activities for baby boomers following their exit from career-track work, and studying and documenting health benefits derived from baby boomers' active engagement in multigenerational civic activities. The bills require the University of Maryland representative on the council to initiate a study documenting the economic and social impact of older workers. By December 31, 2008, and each year thereafter, the council is required to report its findings to the Governor and the General Assembly. The council terminates in 2011.

### **Open Meetings Act**

The Open Meetings Act requires a public body to meet in open session unless authorized by law to do otherwise. When meeting in open session, a public body is required to provide notice of the meeting. Members of the public are entitled to attend open meetings. Public bodies may conduct closed sessions under specified circumstances, including discussing employment matters, consulting with legal counsel, and considering the investment of public funds.

*House Bill 1242 (passed)* makes several changes to the Open Meetings Act. The bill:

- includes under the definition of “advisory function” bodies under a delegation of responsibility by an official subject to the policy direction of the Governor or the chief executive officer of a political subdivision of the State;
- provides that, if a complaint is filed against a public body that no longer exists, the compliance board must send the complaint to the official or entity that appointed the public body; and
- provides that a public body may give notice of meetings by posting information on its web site, if the body has previously given notice that this method will be used.

## **The Military and Veterans**

### **Task Force to Study State Assistance to Veterans**

The Task Force to Study State Assistance to Veterans was established by Chapter 290 of 2006. The task force is charged with making recommendations on the availability and accessibility of services for veterans, the efficiency of existing services, the feasibility of establishing new services for veterans, and the potential impact of an increased number of veterans returning from military service. Under Chapter 290, the task force was required to submit an interim report by December 1, 2006, and a final report by December 1, 2007.

*Senate Bill 873/House Bill 1181 (both passed)* extend the life of the task force from December 1, 2007, to May 31, 2009. The bills also extend the task force’s reporting deadlines so that an interim report will be submitted by December 1, 2007, and a final report by December 1, 2008. The bills provide that the Governor appoints the task force rather than the President of the Senate and the Speaker of the House. All appointments need to be made by July 1, 2007.

### **Maryland Veterans Commission**

The Maryland Veterans Commission advises the Secretary of Veterans Affairs on all matters pertaining to veterans’ issues. Founded in 1924 as the Soldiers’ Relief Fund Commission dedicated to helping disabled World War I veterans, it was renamed the Maryland Veterans Commission in 1935. Along with the Maryland Veterans Home Commission and the War Memorial Commission, the Maryland Veterans Commission became part of the Maryland Department of Veterans Affairs in 1999.

The Maryland Veterans Commission consists of 27 members. One member is appointed from each of the 8 Congressional districts, 1 is a veteran appointed from the State at large, 1 is a representative of a women veterans organization, 1 is a representative of a retired enlisted organization, and 16 are appointed from lists submitted by various veterans’ organizations. *Senate Bill 915/House Bill 1412 (both passed)* add the Colonial Chapter of the Paralyzed Veterans of America to the list of those organizations who may submit a list of candidates to the Governor for appointment.

## Center for Military History

*House Bill 1424 (passed)* establishes the Center for Military History, consisting of the Maryland Museum of Military History and the Maryland Military Historical Research Center, within the Maryland Military Department. The center is authorized to assume title to abandoned property in its possession under specified circumstances.

The mission of the Maryland Museum of Military History is to:

- collect, preserve, interpret, and present significant artifacts and artwork relating to military history, including all armed services and the State's military heritage; and
- convey an awareness, through exhibits, programs, and outreach, of the military service of Marylanders and how that service has helped to preserve freedoms.

The mission of the Maryland Military Historical Research Center is to:

- collect, interpret, preserve, and present documents, photographs, electronic media, and other materials containing information or imagery relating to military history, including all armed services and the State's military heritage;
- educate the public regarding the military history of the State by providing bona fide researchers with access to its collections; and
- advise the Adjutant General and the Maryland Military Department on matters relating to heraldry, honors, lineage, and the history of organized militia units in the State.

The Military Department will provide staff for the center and the Adjutant General will designate its executive director. The bill also authorizes the Maryland Military Historical Society, Inc. to engage in fundraising activities on behalf of the center and provide volunteers to support center activities. The volunteers would be eligible for workers' compensation benefits for injuries suffered in the course of their volunteer work for the center, as if they were paid State employees.

## The Administrative Procedure Act

### Exemption – Death Penalty Protocols

Introduced in response to a 2005 Court of Appeals decision (*Evans v. State of Maryland*), *Senate Bill 239/House Bill 690 (both failed)* would have exempted the death penalty protocols of the Department of Public Safety and Correctional Services from the requirements of the Administrative Procedure Act. The court held that the existing protocols of the Division of Correction directing the administration of lethal injection are ineffective until the protocols are either adopted as regulations in accordance with the provisions of the Act or the General Assembly takes legislative action to exempt the protocols from the provisions of the Act. For a

more detailed discussion of these bills, see Part E – Crimes, Corrections, and Public Safety of this *90 Day Report*.

## **Black History Month**

Black History Month is celebrated nationwide during the month of February and became an official national observance in 1976. The Association for the Study of African American Life and History began this annual event in 1926, when Black History Week was first observed during the second week of February to coincide with the birthdays of Abraham Lincoln and Frederick Douglass. In 1976, this observance officially became Black History Month. *Senate Bill 240 (passed)* requires the Governor to annually proclaim the month of February as Black History Month in recognition of the historical contributions that Black Americans have made to the State. The proclamation shall urge educational and cultural organizations to observe Black History Month properly with appropriate programs, ceremonies, and activities.

## **Elections**

### **Presidential Elections**

#### **Presidential Primary Date**

In anticipation of the 2008 presidential election, presidential primaries and caucuses in various states have been, or are under consideration to be, rescheduled. These efforts are intended to gain greater exposure to presidential campaigns and to gain greater relevance in the nomination of party candidates for voters in those states. February 5 has been the most targeted date for primaries and caucuses, with primaries and caucuses in over 20 states scheduled, or under consideration to be scheduled, on that date. *Senate Bill 1025/House Bill 1434 (both passed)* move Maryland's presidential primary date from the first Tuesday in March to the second Tuesday in February (which in 2008 will fall on February 12). The bills also alter various pre-election deadlines and campaign finance report filing requirements to adjust for the earlier primary date. Virginia and Tennessee also have set February 12 as a presidential primary date; however, as of early April 2007, information gathered by the National Association of Secretaries of State indicated that Tennessee's primary may yet be moved to February 5.

#### **National Popular Vote Agreement**

An agreement that would award the member states' electoral votes to the national popular vote winner, a measure originally proposed to state legislatures in 2006, gained support in state legislatures in 2007. The idea is proposed by National Popular Vote, Inc., a nonprofit organization which cites the concentration of presidential campaigning in a minority of closely divided states and the ability of a candidate to win the presidency without winning the national popular vote as the major shortcomings of the existing electoral college system.

While the electoral college system is a part of the U.S. Constitution, the Constitution also gives the power to the states as to the manner in which electors are appointed. Under the

agreement, each state agrees to commit its electoral votes (a number equal to the aggregate of its U.S. Senators and Representatives) to the national popular vote winner, and the agreement would take effect when a sufficient number of states possessing a majority of the electoral votes nationwide have joined the agreement by enacting the proposal into their state law. Thus, in subsequent elections, the national popular vote winner would receive a majority of the electoral college votes. *Senate Bill 634/House Bill 148 (Chs. 43 and 44)* enact the national popular vote agreement into Maryland law, committing Maryland's electoral votes to the national popular vote winner upon the agreement being enacted in substantially the same form by the requisite number of other states.

### **Restoration of Voting Rights to Felons**

Prior to 1974, individuals who had been convicted of an infamous crime in Maryland were prohibited from registering to vote. The General Assembly passed legislation in 1974, however, allowing an individual convicted of one infamous crime to vote if the individual completed the sentence imposed, including any period of probation. Individuals convicted of a subsequent infamous crime remained unable to vote. No substantive changes were made to State law on the issue after 1974 until Chapter 304 of 2002, which enfranchised an individual with more than one conviction for theft or an infamous crime if the court-ordered sentence was completed and at least three years had elapsed since the completion of the sentence. An individual convicted of buying or selling votes or convicted of a second or subsequent crime of violence, however, remained disqualified to register to vote.

Various measures have been introduced since 2002 seeking to expand the voting rights of individuals convicted of theft or infamous crimes, primarily focusing on allowing a person convicted of theft or an infamous crime to register to vote upon completion of their sentence, regardless of the number of convictions.

According to the Sentencing Project, a research and advocacy group, at the end of 2006, 48 states and the District of Columbia prohibited inmates from voting while incarcerated for a felony offense, with Maine and Vermont permitting inmates to vote. In three states, ex-offenders were not allowed to vote, despite having completed their sentence, and in nine others (including Maryland) certain categories of ex-offenders were not permitted to vote despite having completed their sentence or were permitted to vote after a waiting period. Florida recently revised its voting rights restoration process to allow individuals convicted of certain felonies to have their voting rights restored upon completion of their sentence.

*Senate Bill 488 (passed)* allows an individual convicted of any crime, with the exception of buying or selling votes, to register to vote if not actually serving a court-ordered sentence of imprisonment, including any term of parole or probation, for a felony conviction. The bill eliminates a provision requiring an individual with a second or subsequent conviction of theft or other infamous crime to allow three years to elapse after completing the individual's court-ordered sentence, and a provision disqualifying an individual, who has been convicted of a second or subsequent crime of violence, from being a registered voter.

## Early Voting

During the 2006 session, legislation was enacted over the Governor’s veto establishing an early voting period for Maryland elections and generally extending the availability of absentee voting to all Maryland voters.

Senate Bill 478 of 2005 (Chapter 5 of 2006) established an early voting period from the Tuesday to the Saturday before an election with polling places open for eight hours each day. The measure also required the establishment of at least three early voting polling sites in each of the State’s “big seven” counties and at least one early voting polling site in each of the other 17 counties. Under the enactment, a voter was allowed to vote at any early voting polling place in the voter’s county of residence. House Bill 1368 of 2005 (Chapter 61 of 2006) further defined early voting, specifying the early voting sites in each of the “big seven” counties and extending early voting from 8 to 13 hours each day by directing that early voting be conducted from 7 a.m. to 8 p.m. each day (mirroring the standard time period for voting at the polls on election day).

House Bill 622 of 2005 (Chapter 6 of 2006) repealed eligibility requirements in State law for absentee voting (generally consisting of a voter being absent from the voter’s jurisdiction or being unable to go to their polling place on election day for specified reasons), thus allowing any registered voter to vote by absentee ballot except to the extent preempted under an applicable federal law.

The State’s early voting laws, Chapters 5 and 61 of 2006, were challenged in court in July 2006, and in August 2006 were eventually held to be void by the Maryland Court of Appeals (*Lamone v. Capozzi*, per curiam order issued August 2006). The court held that the early voting laws were inconsistent with, and in derogation of, certain provisions of the Maryland Constitution, in particular the provisions that specify the date of general elections and that indicate a person is entitled to vote only in the ward or election district in which the person resides.

*Senate Bill 1 (passed)*, if approved by the voters at the next general election, would amend the Maryland Constitution to give the General Assembly the power to provide by law a process to allow voters to vote early at polling places in or outside of their election districts or wards or, during the two weeks immediately preceding an election, on no more than 10 other days prior to the dates specified in the Maryland Constitution. The amendment also would clarify the General Assembly’s power to provide for absentee voting for, in addition to voters who are absent at the time of an election or are unable to vote personally, those voters who might otherwise choose to vote by absentee ballot. *Senate Bill 1* also specifies that the early voting laws struck down by the Court of Appeals may not take effect if the amendment becomes effective, and that sections of the Annotated Code relating to early voting are repealed.

## Voter-verifiable Paper Records

The question of the need to verify votes cast on electronic voting machines through the use of voter-verified paper records or otherwise has been a matter of ongoing debate in Maryland

and nationwide in recent years as the State and many jurisdictions across the country have purchased and used direct recording electronic (DRE) voting machines in recent elections. According to *electionline.org*, during the 2006 elections, 22 states required DREs to produce a voter-verified paper record, while 15 states (including Maryland) and the District of Columbia used DREs in at least 1 jurisdiction and did not require voter-verified paper records.

The State entered into a contract to purchase DREs in 2002 from Diebold Election Systems, Inc. The voting system was implemented in three phases, a process which was completed in 2006, with all jurisdictions using the machines in the September and November 2006 elections. Several studies have reported on the vulnerability of the Diebold system to hackers or substandard computer code. The reports noted security concerns within the machines involving the possibility of physical tampering and electronic modification of election results. Some computer scientists analyzing the issue of computer software driven electronic voting machines have called for the use of “open-source” software or software developed in the public arena with input from many programmers and test users.

The State Board of Elections has implemented testing and security procedures that have been recommended by reviews and studies done on the State’s DRE system and maintains confidence in the security and reliability of the system. During the summer of 2005, SBE commissioned a two-part study on various independent voter verification systems, including a voter-verified paper trail. The studies, however, did not recommend adoption of the products studied at that time because they (1) were not fully developed; (2) presented undesirable trade-offs (such as greater security vs. degraded privacy); and (3) raised issues about usability and administrative processes.

From 2004 to 2006, a number of legislative proposals were considered to address concerns about the State’s DRE machines. Many of the proposals would have required the State’s voting system to allow voters to verify their votes through the use of paper records or other independent means, though none were successful.

*Senate Bill 392/House Bill 18 (both passed)*, which are contingent on sufficient funding being provided in the State budget not later than fiscal 2009, and apply to each election occurring on or after January 1, 2010, specify that SBE may not certify a voting system unless it provides a “voter-verifiable paper record,” which includes a paper ballot prepared by a voter for the purpose of being read by an optical scan machine; a paper ballot prepared by a voter to be mailed to a local board, whether from a domestic or overseas location; and a paper ballot created through the use of a ballot marking device (a device that marks an optical scan ballot according to choices made by a voter on a touchscreen and generally provides accessibility features for disabled voters similar to those provided by a DRE touchscreen machine).

The bills also specify various requirements a voting system must meet with respect to access for voters with disabilities. SBE must ensure that the voting system conforms to access requirements under specified federal guidelines and also must conduct an evaluation of the voting system to assess its accessibility and usability by voters with disabilities, including a public demonstration of the system and an evaluation by individuals representing a cross-section

of voters with disabilities. At least one voting system in each polling place must provide access to voters with disabilities, and SBE must ensure that adequate backup equipment is available.

SBE must also provide election judges with uniform statewide training on the voting system including all features of the voting system that provide access to voters with disabilities and the rights of voters with disabilities.

## **Campaign Finance**

A campaign finance entity is required to file campaign finance reports at various times prior to and after primary and general elections, in addition to an annual report filed on the third Wednesday in January of each year. However, the responsible officers of a candidate's political committee may file an affidavit on or before the day when the first campaign finance report is due stating that the entity does not intend to raise contributions or make expenditures of \$1,000 or more. If the campaign finance entity later receives contributions or makes expenditures of \$1,000 or more, the entity must file campaign finance reports from that point forward.

*House Bill 1042 (passed)* expands the option for a campaign finance entity to file an affidavit rather than a campaign finance report, by allowing the entity to file an affidavit for *any* of the campaign finance reporting periods prior to and just after a primary and general election stating the entity did not raise contributions or make expenditures of \$1,000 or more during the period. An affidavit remains in effect for subsequent reporting periods, provided the entity does not receive contributions or make expenditures of \$1,000 or more in a given reporting period. The campaign finance entity remains subject to the requirement to file an annual campaign finance report in January of each year, regardless of whether affidavits have been filed for previous reporting periods.

*Senate Bill 546 (failed)* would have provided for public campaign financing for General Assembly members' campaigns, funded primarily through abandoned property revenue and a tax checkoff.

## **Miscellaneous**

### **Election Judge Salaries**

The 2006 primary election highlighted problems that some local boards have in recruiting and retaining election judges. Some of the State's larger jurisdictions experienced meaningful shortages of election judges or in election judges previously contracted not showing up on time or at all on election day. Increasing election judge salaries has generally been suggested as a method to improve recruitment.

*Senate Bill 376/House Bill 181 (both passed)* increases the compensation for Baltimore County election judges and chief election judges from \$125 to \$162.50 per day and from \$160 to \$225 per day, respectively. *House Bill 637 (passed)* increases the compensation for Prince George's County election judges and chief election judges from \$125 per day to not less than \$200 per day and from \$200 per day to not less than \$250 per day, respectively. *House Bill 637*

also increases the compensation provided to election judges in Prince George's County for training from \$25 to \$50.

### **Absentee Ballots/Voter Rights and Protections/Polling Place Operations**

Various bills were introduced that addressed issues experienced during the 2006 elections by voters, election judges, and election boards, though many were ultimately unsuccessful.

*House Bill 16 (failed)* and *House Bill 365 (failed)*, for example, sought to move the deadline for absentee ballot applications forward, set a firm deadline for local boards to mail out absentee ballots to voters, and allow absentee ballots mailed back by voters on election day to be considered timely. During the 2006 general election, numerous local boards struggled to process an unusually large volume of absentee ballot requests which, combined with printer delays in the production of absentee ballots, resulted in some absentee voters not receiving their absentee ballots in time to return them "before the election day" mailing deadline.

*Senate Bill 386/House Bill 309 (both failed)* sought to make changes to State election law to address election judge training; delayed opening of polling places; individuals influencing voters through the use of fraud; and the distribution, dissemination, or publication of false campaign material. *Senate Bill 63 (failed)* would have required a "Voter's Bill of Rights" to be posted at each polling place and distributed with specimen ballots and at each polling place and *House Bill 589 (failed)* and *Senate Bill 523/House Bill 652 (both failed)* addressed automated political telephone calls.

### **Baltimore City Elections**

In an attempt to align Baltimore City elections with statewide elections, *Senate Bill 708 (failed)* would have moved the city's municipal elections to coincide with the statewide gubernatorial elections. Similar attempts have been made in previous years. Most notably, in 1999, the city charter was amended to move the municipal general election to coincide with the presidential elections. The municipal primary election, however, remained in the year before the presidential election year, as provided for under State law. After a number of unsuccessful attempts to amend State law between 2000 and 2003 to move the municipal primary date to be in the same year as the municipal general election, the city charter was amended again in 2004 to move the municipal general election date back to the year after the gubernatorial election, in the same year as the municipal primary election.

## **Ethics**

### **In General**

*Senate Bill 885 (passed)* makes two changes to the Maryland Public Ethics Law. The first provision amends the definition of "interest" under the ethics law to expand the exemption for various kinds of retirement trusts and adds as another exemption college savings trusts. Currently, the law exempts only those retirement trusts provided under Sections 401 and 501 of

the federal Internal Revenue Code. This has a bearing primarily on the requirement of officials to report interests on their annual financial disclosure statements. The bill also increases the lobbyist registration fee from \$50 to \$100. The fees are deposited in the Lobbyist Registration Fund, which is used to offset the expenses of the lobbying regulation function of the State Ethics Commission.

*House Bill 209 (failed)* would have required that a legislator against whom an ethics complaint is filed immediately be provided with a copy of the complaint, after redaction of information that would identify the complainant. Currently, a legislator who is the subject of a complaint is not informed of the complaint until it has been reviewed initially by the Joint Committee on Legislative Ethics.

### **Department of Agriculture – Conflicts of Interest**

The Maryland Public Ethics Law imposes conflict of interest standards on officials and employees in Executive Branch agencies that perform a regulatory function so that those officials and employees will not have financial interests in entities that are subject to their agency's authority. This may sometimes result in agencies having difficulty employing qualified individuals with needed expertise. *House Bill 558 (passed)* provides an exemption from certain conflict of interest provisions for employees of the Maryland Department of Agriculture who own or operate farms. However, the employee must not exercise any regulatory or supervisory authority over the farming activities of the individual's own farm.

The bill requires the Department of Agriculture, in consultation with the State Ethics Commission, to adopt regulations relating to the affected employees. Additionally, both agencies are required to jointly report, on or before December 31, 2010, on the number of employees hired after October 1, 2007, who own or operate a farm, the positions for which those employees were hired, and how the department addressed any conflicts of interest.

### **Frederick County – Zoning and Planning**

The Maryland Public Ethics Law contains special ethics requirements that apply to land use and zoning and planning matters in Montgomery, Prince George's, and Howard counties, respectively. Under *Senate Bill 979/House Bill 1344 (both passed)*, a similar provision is added for Frederick County. The bills:

- prohibit applicants for certain changes in zoning regulations and land use plans from making campaign contributions to Frederick County commissioners within 2 years of filing the application or within 30 days from the date either final action is taken on the application or it is withdrawn – whichever is earlier;
- mandate that a Frederick County commissioner abstain from voting on or otherwise participating in proceedings for the application if the commissioner received campaign contributions from the applicant during that period;

- require disclosure of *ex parte* communications between a Frederick County commissioner and an applicant while an application is pending;
- require the County Manager to prepare summary reports of all affidavits and disclosures that have been filed in the application case files at least twice each year;
- authorize the Frederick County Ethics Commission or another aggrieved party of record to assert a violation of the provisions of the bill as a procedural error in an action for judicial review of the application, and provide that if the court determines that a violation has occurred, it must remand the case back to the Board of County Commissioners for reconsideration of the application; and
- provide that knowing and willful violations of the provisions of the bills are misdemeanor crimes and subject those who are convicted of those violations to up to six months imprisonment or a fine of up to \$1,000 or both.

## Procurement

### Living Wage

In contrast to the 2006 session during which a large number of proposals to revise aspects of the procurement law were considered by the General Assembly, the 2007 session saw only modest activity in the procurement area. One of those measures, the State living wage legislation, however, has thrust Maryland into the national spotlight.

*House Bill 430 (passed)* makes Maryland the first state in the nation to require certain contractors to pay a living wage to employees who perform work under State contracts. For fiscal 2008, the living wage is set at \$11.30 per hour for Montgomery, Prince George's, Howard, Anne Arundel, and Baltimore counties and Baltimore City. It is set at \$8.50 for all other areas of the State, accounting for disparities in the cost of living across the State. The Commissioner of Labor and Industry will adjust these rates for inflation annually. The \$11.30 rate applies to eligible contracts in which contract services valued at 50 percent or more of the total value of the contract will be performed in the six jurisdictions subject to the higher rate, as determined by the contracting agency. The \$8.50 rate applies to all other eligible contracts. State contractors who subsidize the cost of health insurance for their employees may reduce the wages they pay by all or part of the hourly cost of their share of the insurance premiums. In addition, the commissioner may allow employers who contribute to employees' deferred compensation plans to reduce the wages they pay by up to \$.50 per hour.

The bill exempts contracts valued at less than \$100,000 from the living wage requirement, as well as contracts that provide emergency services to prevent or respond to imminent threats to public health or safety. The following employers are also exempt:

- employers with fewer than 10 employees and contracts valued at less than \$500,000;

- public service companies;
- nonprofit organizations;
- other State agencies; and
- county governments (including Baltimore City).

Contractors for any of the 19 State agencies that are exempt, in part or in full, from most of the State procurement law do not have to pay the living wage. The bill does not require employers to pay the living wage to employees who spend less than half of their time in any given week working on the contract, who are under the age of 17, or who work full-time for less than 13 consecutive weeks for the duration of the contract.

The bill includes procedures for investigating complaints of noncompliance with the living wage law. It also includes penalties for employers who do not comply with the law. Finally, it requires that several studies be conducted to evaluate the effects of the living wage. First, the Department of Legislative Services (DLS) must complete a study of the fiscal and economic effects of the bill on the public and private sectors by January 1, 2009. Second, every five years, the commissioner must evaluate the inflation-adjusted living wage rates and also determine whether counties are appropriately placed in each of the two living wage tiers. Third, by December 1, 2007, the commissioner must study the effect of the reduction in the living wage for employer contributions to deferred compensation plans on employees' standard of living.

### **Background**

The living wage seeks to ensure that employees of State contractors do not live below the federal poverty level. Under the State's current minimum wage of \$6.15 per hour, full-time workers earn \$12,792 annually, which is just above the federal poverty level for a single person but well below the \$20,650 federal poverty level for a family of four. By contrast, full-time workers earning \$11.30 per hour earn \$23,504 annually. Montgomery and Prince George's counties, as well as Baltimore City, already have living wage ordinances in effect. The living wage is \$9.62 in Baltimore City, \$11.25 in Prince George's County, and \$11.60 in Montgomery County. In addition, more than 120 localities, including such large cities as Boston, Detroit, and Los Angeles, have enacted living wage laws.

### **Fiscal Effect**

Research on the fiscal effects of living wage ordinances on localities has found that, over the short-term, contract costs increase by between 0 and 2 percent, or less than the rate of inflation. In Baltimore City, for instance, contract costs increased by 1.2 percent in the first two years after the city enacted its living wage. Explanations for the limited increases include increased employee retention, which reduces recruitment and training costs; higher worker productivity; employer absorption of higher costs to remain competitive in the contract bidding process; and the limited number of contracts that are re-bid over the time period covered by the studies. Based on this research, DLS estimates that the cost of State service contracts for

maintenance and food services could increase by 1 percent, or about \$430,000, over the first year or two.

Research on the long-term fiscal effects of the living wage is more scarce and inconclusive. The living wage could have a more profound long-term effect due to more labor intensive contracts being re-bid and wage spillover effects as higher-wage employees seek larger increases in pay. In addition, over time the State may become more adept at enforcing living wage requirements, thereby reducing noncompliance. At the same time, these effects could be mitigated by reduced public assistance payments for families emerging from poverty status and the restrained growth of the living wage when compared with other wages in the State.

### **Minority and Small Business Enterprise Programs**

Chapter 75 of 2004 established the Small Business Reserve (SBR) program, which requires 22 designated State agencies to structure their procurement procedures so that at least 10 percent of the total value of each agency's procurement of goods, supplies, services, maintenance, construction, construction-related services, architectural services, and engineering service contracts is made directly to certified small businesses. *Senate Bill 23/House Bill 28 (both passed)* extend the SBR program for three years, from its scheduled termination on September 30, 2007, until September 30, 2010.

Statutory authorization for the Washington Suburban Sanitary Commission's (WSSC) minority business enterprise programs expired in July 2006. Accordingly, the programs have been dormant since that time. To remedy that circumstance, *House Bill 691 (passed)* reauthorizes the WSSC prior minority business utilization programs. For a more detailed discussion of this issue, see the subpart "Bi-county Agencies" within Part D – Local Government of this *90 Day Report*.

*House Bill 692 (passed)* conforms the definition of a small business for WSSC's optional small business enterprise program with the definition of small business in State law and regulations. For a more detailed discussion of this issue, see the subpart "Bi-county Agencies" within Part D – Local Government of this *90 Day Report*.

### **Environmental Protection**

*Senate Bill 332/House Bill 942 (both passed)* codify the Green Building Council that was established within the Department of General Services by executive order in 2001. The council must evaluate current green building technologies, recommend cost-effective green building technologies that the State may choose to employ in future construction projects, develop a list of building types for which green building technologies may not be appropriate, and report annually to the Governor and the General Assembly on the State's progress in implementing those technologies.

Biodiesel fuel is made from renewable sources such as vegetable oils and animal fat, so it reduces harmful emissions and is less flammable than regular diesel fuel. *House Bill 745 (passed)* requires that, beginning in fiscal 2009, at least half of the State's diesel-powered heavy

equipment and heating equipment use a blend of fuel that is at least 5 percent biodiesel. It exempts any equipment whose manufacturer's warranty would be voided if biodiesel fuel causes mechanical failure. Diesel fuel that is at least 5 percent biodiesel generally costs between 2 and 10 cents more per gallon than regular diesel fuel.

### **Miscellaneous Procurement Bills**

*Senate Bill 192/House Bill 878 (both passed)* make procedural and technical changes to the State's commercial nondiscrimination policy, which prohibits the State from entering into a procurement contract with a business entity that has discriminated against subcontractors, suppliers, vendors, or commercial customers on the basis of race, color, religion, ancestry or national origin, sex, age, marital status, sexual orientation, or disability. The policy was enacted in 2006 but has not yet resulted in any viable complaints against a business entity.

*House Bill 710 (passed)* prohibits, under specified conditions, the Maryland-National Capital Park and Planning Commission from soliciting a service contract valued at more than \$75,000 that will adversely affect commission employees. For a more detailed discussion of this issue, see the subpart "Bi-county Agencies" within Part D – Local Government of this *90 Day Report*.

## **Personnel**

### **Budget Actions on State Personnel**

#### **Employee Compensation**

The regular employee compensation package funded for fiscal 2008 reflects enhancements available to the entire workforce. Benefits available to State employees include the required State match of \$600 for employee contributions to individual deferred compensation plans and merit increases from 1.7 to 3.9 percent for employees who are performing at or above established standards for their classification. The fiscal 2008 general salary increase is 2 percent, applied uniformly across all positions.

#### **Workforce Growth**

The 2006 Spending Affordability Committee (SAC) of the General Assembly recognized the contribution past position caps have had in reducing the size of the State workforce but also recognized that long-term restrictions on position growth may impede the ability of some agencies to carry out their missions. Therefore, SAC recommended that growth be limited to 1 percent over the number of full-time equivalent positions authorized in the fiscal 2007 working appropriation in nonhigher education Executive Branch agencies. The legislative appropriation for Executive functions for fiscal 2008 grew by 0.8 percent. For fiscal 2008, the budget authorizes 81,292 regular positions, an increase of 1,010 positions or 1.3 percent.

## State Employee Rights and Protections

During the 2005 interim, the Legislative Policy Committee appointed a Special Committee on State Employee Rights and Protections to examine numerous matters regarding the State Personnel Management System (SPMS), as well as terminations and separations of at-will employees. In fall 2006, the committee concluded its proceedings and issued a final report including a number of recommendations for changes to the State's personnel systems. *Senate Bill 2/House Bill 162 (both passed)*, the State Employees' Rights and Protections Act of 2007, implement some of the recommendations made by the special committee.

The bills require the designation of at-will positions in SPMS and the Maryland Department of Transportation (MDOT) that must be filled with and without regard to political affiliation, belief, or opinion. They also clarify that at-will State employees cannot be terminated for any reason that is illegal or unconstitutional. Additionally, a management service employee or nonpolitical special appointment may not be terminated to create a position for an individual because of that individual's political affiliation, belief, or opinion. All SPMS and MDOT employees must be notified of their position classification and associated rights (including classification changes) every six months. Finally, the bills require the Department of Legislative Services, with the assistance of certain entities, to study at-will employment and make recommendations for legislation and administrative changes to the State's personnel systems.

Other recommendations in the report of the Special Committee on State Employee Rights and Protections were incorporated in *Senate Bill 50/House Bill 161 (both passed)* and prohibit the Governor's Appointments Office from directing or overruling an appointing authority, the Secretary of Budget and Management, or any unit in the Department of Budget and Management regarding a decision to appoint, promote, transfer, reassign, discipline, or terminate an employee under the appointing authority's jurisdiction. The bills specify that an appointing authority may delegate authority to act on its behalf, but only to an employee or officer under the appointing authority's jurisdiction. An appointing authority may not delegate the authority to make the final decision on the termination of an employee.

## Collective Bargaining

### Use of Employee Information

Chapter 62 of 2006 required the Department of Budget and Management to provide, upon written request, an exclusive representative of a nonhigher education Executive Branch bargaining unit with a list of employees, their position classification, unit, home and worksite addresses, and home and worksite telephone numbers. An exclusive representative may be charged a fee not to exceed the actual cost of providing the information. In addition, an exclusive representative may only request this information twice every calendar year per bargaining unit. The statute requires employees to be notified of such a request and allows them to opt out if, within a specified timeframe, they request that their information not be provided. *Senate Bill 572/House Bill 971 (both passed)* expand the requirement to provide employee information to exclusive representatives to State higher education institutions. The bills also

provide that if an Executive Branch employee or higher education employee notifies the employer that the employee does not want their contact information provided to the exclusive representative, the notification remains in effect until the employee indicates otherwise.

### **Service Fees**

While a State employee exclusive representative bargains for all members of a particular bargaining unit, only a portion of these individuals pays union membership dues to the representing organization. *Senate Bill 111/House Bill 129 (both failed)* would have authorized an exclusive representative to collectively bargain for service fees from non-union members.

## **Pensions and Retirement**

With major pension benefit enhancement legislation for teachers and State employees having been enacted in 2006, the 2007 legislative session focused on pension and retirement issues other than benefits. Key areas addressed during the session included loosening restrictions on reemployment by retired teachers, principals, and correctional officers; expanding membership in the Law Enforcement Officers' Pension System (LEOPS); and the management of State pension fund investments.

### **Reemployment of Retirees**

To help school districts meet federal requirements to place highly qualified teachers in disadvantaged schools, *Senate Bill 668/House Bill 962 (both passed)* expand the conditions under which retirees of the Teachers' Pension System (TPS) or the Teachers' Retirement System (TRS) may be rehired by their former employers without triggering a reduction of their pension benefit payments. Under current law, a retiree of TPS/TRS who is reemployed by a former employer is subject to a dollar-for-dollar benefit reduction if the sum of the retiree's annual compensation and initial retirement allowance exceeds the retiree's compensation at the time of retirement. However, a retiree who returns to work in a low-performing school and teaches in an area of critical shortage is exempt from the benefit reduction. These bills expand the definition of low-performing school to include schools in which at least 50 percent of students qualify for federally subsidized school lunches.

These bills also increase the number of retired teachers that each school district may rehire in addition to those who work in a low-performing school teaching in an area of critical shortage. The new limits under *Senate Bill 668/House Bill 962* range from 5 to 15 retired teachers, depending on the total number of teachers in the school district. The bills also broaden the criteria under which the retired teachers may be rehired to include returning to work in either (1) a low-performing school teaching any subject or class; or (2) any type of school teaching in an area of critical shortage.

To help the Department of Public Safety and Correctional Services (DPSCS) fill persistently vacant correctional officer positions, *House Bill 1249 (passed)* exempts retirees of the Correctional Officers' Retirement System from retirement benefit reductions if they are

reemployed as correctional officers by either the Division of Pretrial Detention and Services or the Patuxent Institution.

### **LEOPS Membership**

Two new law enforcement officer groups were admitted to LEOPS during the 2007 legislative session. *Senate Bill 320/House Bill 152 (both passed)* expand membership in LEOPS to include law enforcement officers for the Martin State Airport employed by the Military Department. In addition, *House Bill 432 (passed)* expands membership in LEOPS to include officers of the Internal Investigative Unit within DPSCS.

### **Local Pension Bills**

Employees of local participating governmental units (PGUs) who withdraw from the SRPS may choose to remain in the State system or join the local pension plan. However, PGU employees who remain in the State system may participate in a benefit enhancement only with the approval of the General Assembly and their employer. *Senate Bill 961/House Bill 990 (both passed)* allow active Frederick County employees who remained in the State system when Frederick County withdrew to receive the enhanced benefit enacted in 2006, pending the approval of the Board of County Commissioners of Frederick County.

### **Joint Committee on Pensions Bills**

The General Assembly passed all five bills sponsored by the Joint Committee on Pensions during the 2007 legislative session.

*Senate Bill 999 (passed)* gives the Board of Trustees of the State Retirement and Pension System (SRPS) independent authority to determine the compensation, including performance bonuses, for the system's chief investment officer (CIO). It also gives the CIO sole authority to hire and fire external managers to manage the system's assets, a responsibility that currently rests with the board. These provisions are designed to bring the CIO's compensation and authority in line with that of comparable pension plans in an effort to attract top candidates to the CIO position, which has remained vacant for over a year. The CIO's base salary and leave must be based on the compensation and leave provided to CIOs by comparable pension systems. Criteria for determining performance bonuses, if any, for the CIO must be based on objective benchmarks of investment performance and criteria used by comparable public pension systems. The criteria are also subject to review and comment by the joint committee.

SPRS members are entitled to up to five years of service credit for military service that interrupts their membership. Military service credit may also be granted for active military duty that occurred prior to membership in SRPS. *Senate Bill 304/House Bill 1406 (both passed)* require that military service credit granted to members of SRPS for military service that interrupts membership be applied to their retirement allowance at the accrual rate in effect when they retire. Chapter 277 of 2006 included the same requirement for military service credit granted for active military duty that occurred prior to enrollment in SRPS.

*Senate Bill 412 (passed)* amends State pension law to conform to the requirements of the federal Pension Protection Act of 2006 and to the Economic Growth and Tax Relief Reconciliation Act of 2001. It allows surviving spouses and beneficiaries to request that lump sum survivor benefits be rolled over directly to an Individual Retirement Account or other eligible retirement plan.

*Senate Bill 515 (passed)* is one of a series of code simplification bills requested in recent years by the Board of Trustees of SRPS. It repeals obsolete language in the State Personnel and Pensions Article and clarifies and corrects provisions regarding reemployment of retirees, payments to beneficiaries, eligibility for the Optional Retirement Program, eligibility of elected officials, purchase of service credit, benefit offsets for disabled retirees receiving workers' compensation payments, and benefits for legislative desk officers.

In 2006, an Alternate Contributory Pension Selection was enacted to provide enhanced benefits to members of EPS and TPS. *Senate Bill 583 (passed)* allows, under specific conditions, members of EPS and TPS, who participate in the Alternate Contributory Pension Selection, to combine service credit from prior employment with current service credit earned under the Alternate Contributory Pension Selection. It also updates various provisions in State pension law to reflect the 2006 enactment.

### **Miscellaneous Retirement and Pension Bills**

*Senate Bill 543/House Bill 1336 (Chs. 39 and 40)* authorize the SRPS Board of Trustees to divest its holdings in companies that do business in Sudan after engaging those companies in an effort to encourage them to act responsibly and refrain from any activities that promote or enable abuses of human rights in the Darfur region of the country. With this bill, Maryland joins a growing list of large public pension funds that have taken steps to divest from companies with economic ties to the Sudanese government. In deciding whether to divest from a particular company, the board must act in accordance with its fiduciary responsibilities.

Individuals who transfer into a State pension system have a one-year window during which to request the transfer of service credit earned in another State or local system. If an individual fails to request a transfer within the one-year period, the only recourse is to seek statutory redress from the General Assembly. *Senate Bill 243/House Bill 311 (both passed)* allow an individual to request a waiver of the one-year requirement from the Executive Director of the State Retirement Agency. If the executive director denies a request for a waiver, the denial is to be presented to the full SRPS Board of Trustees for review. The bills also allow a particular individual who did not request a transfer within the one-year window to transfer service credit from one State system to another.

Upon reaching 55 years of age, a former Governor currently receives a retirement benefit equal to one-third (for one term) or one-half (for two terms) of the annual salary of the current Governor; upon the former Governor's death, the surviving spouse receives half of the benefit. However, if the former Governor dies before reaching 55, the spouse receives no benefit. *Senate Bill 744/House Bill 1013 (both passed)* allow the surviving spouse of a former Governor who

dies before becoming 55 to receive a monthly retirement allowance equal to half of the benefit that a former Governor would be due upon reaching 55 years of age.

*Senate Bill 780/House Bill 1247 (both passed)* require the transfer to the Postretirement Health Benefits Trust Fund of all future budgetary allocations for the purpose of reducing the State's accrued liabilities associated with health benefits provided to State retirees. The bills also authorize the transfer of funds allocated in the fiscal 2007 and 2008 budgets for retiree health liabilities to the trust fund and allow payments from the trust fund in future years to pay the ongoing costs of providing health benefits to State retirees. Finally, the bills alter the composition of the Blue Ribbon Commission to Study Retiree Health Care Funding Options created in 2006.

### **Interim Study**

The House Committee on Appropriations referred six bills dealing with benefits for and membership in the Correctional Officers' Retirement System (CORS) for further study during the interim. *House Bill 402 (failed)* would have included correctional case managers in CORS, *House Bill 831 (failed)* would have included agents and field supervisors I of DPSCS's Division of Parole and Probation, and *House Bill 840 (failed)* would have included Maryland Correctional Enterprises employees and correctional laundry officers. *House Bill 453 (failed)* would have increased the accrual rate for CORS members from 1.8 to 2.5 percent for service credit earned at the rank of lieutenant, captain, and major. *House Bill 911 (failed)* would have increased the CORS accrual rate from 1.8 to 2.2 percent for all service credit earned after July 1, 2007. *House Bill 984 (failed)* would have established a Deferred Retirement Option Program (DROP) for CORS members, similar to DROP programs for State Police officers and LEOPS members.

### **General Assembly**

#### **Special Committee on State Employee Rights and Protections**

During the 2005 legislative interim, the Legislative Policy Committee (LPC) created by resolution a 12-member Special Committee, composed of 6 senators and 6 delegates and all of whom were members of LPC, to examine a number of matters regarding the terminations and separations of at-will employees in the Executive Branch under prior Administrations and the adequacy of protections in law for those employees. After conducting extensive hearings at which witnesses, who were former State employees who had been terminated, testified about the circumstances of their terminations and former Administration officials testified about the manner in which decisions were made to hire and terminate employees in several of the major Executive Branch agencies, in October 2006 the Special Committee submitted its report to the LPC.

The report of the Special Committee contained a number of conclusions, including conclusions about the functioning of the Governor's Appointments Office and its role in the

previous Administration in the hiring and termination of at-will employees in the Executive Branch of State government; the need for clarification in the law as to the rights and protections of at-will employees; and, as to special appointees, the need for the identification of those who may not be hired or fired for political reasons and those who may. The recommendations also included a study of the number of at-will employees in the State both under the State Personnel Management System and the Department of Transportation personnel system. The recommendations of the Special Committee were included in *Senate Bill 2/House Bill 162 (both passed)* and *Senate Bill 50/House Bill 161 (both passed)*. For a further discussion of these bills, see subpart “Personnel” within this part.

## Legislative Inquiries and Examinations

*Senate Bill 384 (passed)* establishes procedures through which a legislative committee may file a petition in the circuit court for an order directing compliance with a subpoena or compelling testimony from a witness. It applies to LPC, the Joint Committee on Administrative, Executive, and Legislative Review (AELR), the Joint Committee on the Management of Public Funds, a legislative investigating committee, or a standing committee.

The bill stems from the experience of the Special Committee on State Employee Rights and Protections with respect to hearings it conducted in 2006 at which some witnesses refused or failed to answer questions posed to them by the Special Committee’s attorney or by committee members. The bill does not apply to the Special Committee’s inquiry but will clarify the process for enforcing legislative subpoenas in the future.

*Senate Bill 384* outlines the process for responding to such a petition; however, the respondent may not file either a motion to quash or a petition for an injunction regarding the subpoena. Unless the court determines that there are cases requiring a higher priority, the petition must take precedence on the court’s docket and be heard at the earliest practicable date.

The bill establishes that papers, books, accounts, documents, testimony, and records subpoenaed in connection with a lawfully authorized legislative inquiry or examination must be pertinent to the inquiry or examination. Testimony, records, etc. are considered pertinent if they (1) relate to the matters under inquiry or examination; (2) assist in assessing the credibility of a witness; (3) contradict or corroborate the testimony of a witness; or (4) demonstrate the existence of undue influence on a witness.

Under current law, LPC, the AELR committee, the Joint Committee on the Management of Public Funds, and the standing committees (with LPC approval) may administer oaths, issue subpoenas, compel the attendance of witnesses and the production of documents, and take depositions. If a person fails to comply with a subpoena or fails to testify, a member of the committee may petition a circuit court to issue an order directing compliance with the subpoena or compelling testimony. Such an order is enforceable by proceedings for contempt.

The bill clarifies that LPC may delegate its authority to issue subpoenas, administer oaths, and take related actions to a special committee it creates.

*Senate Bill 384* also provides the following:

- A legislative committee's petition to direct compliance with a subpoena or to compel testimony must be filed in the Anne Arundel County Circuit Court or, at the election of the petitioner, in any county where the respondent resides, is employed, habitually engages in a vocation, or carries on a regular business.
- Unless there was no response to a subpoena, the petition must contain the questions that were asked or requests made of the respondent, and the respondent's answers or objections (if provided). In any hearing on such a petition, the court may not allow additional evidence.
- A respondent may not file either a motion to quash the subpoena or petition for an injunction regarding the subpoena, and a response to a petition is the only pleading that an objecting party may file to object to a subpoena.
- Any response to the petition shall be filed by the party served with the petition within 15 days after being served, unless that time period is shortened by the court.
- A party to a proceeding under the bill may appeal the circuit court's decision only by a petition to the Court of Appeals for the issuance of a writ of *certiorari*.
- A legislative investigating committee's code of fair procedures, as established in statute, does not limit the authority of the committee or one of its subcommittees to administer oaths and subpoena witnesses and records as authorized by law.
- The prohibition on a legislative investigating committee's hearings from being filmed, televised, or broadcast is repealed.
- The applicability of the bill's provisions are prospective only and do not have an effect on any cause of action arising before October 1, 2007, the effective date of the bill.

### **Legislative Scholarships**

*Senate Bill 604 (passed)* amends the Senatorial Scholarship law to raise the maximum amount that a recipient may receive. Previous law capped an annual award at \$2,000. Under the bill, the maximum annual award amount may be as high as the cost of tuition and fees at the most expensive constituent institution of the University System of Maryland, **other than** the University of Maryland University College or the University of Maryland, Baltimore. That amount is currently \$8,708 per year. Each senator may award \$138,000 in scholarships each year. The bill additionally repeals a cap on the total cumulative amount a recipient may receive.

*Senate Bill 739 (failed)* would have applied to both the Senatorial Scholarship Program and the Delegate Scholarship Program, providing that a legislative scholarship could not be awarded to a person who is related, in accordance with a listing of relationships, to the legislator making the award. In addition, a member of the General Assembly could not knowingly make

an award to an individual who is related by one of the listed relationships to a legislator from the member’s legislative district.

## **General Assembly Elections – Public Financing**

An effort to enact a system of public funding for candidates for election to the General Assembly was unsuccessful. *Senate Bill 546 (failed)* would have created an Election Financing Commission and established a Public Election Fund, with funds provided through a variety of sources, including a voluntary taxpayer check-off and budgeted monies. Beginning with the 2010 election, a candidate would qualify for public funding by raising “seed money” in small contributions. The amount of public financing in the primary or general election would be a maximum of \$50,000 for Senate candidates and \$40,000 for those running for House of Delegates. The amounts would be less in the case of delegate races in two-member or single-member districts. Candidates running in uncontested races in the primary or general election would have received significantly lower amounts.

## **Annotated Code**

### **Code Revision**

The General Assembly is nearing the completion of a long-term project to revise Maryland’s entire code of statutory laws. The purpose of the Code Revision project is to reorganize statutory provisions and restate them in clear language and a modern format. There are no substantive changes made to the law being revised. The Code Revision project is staffed by the Department of Legislative Services, and the work is exhaustively reviewed by prominent members of the legal community prior to being introduced as bills.

*Senate Bill 6 (Ch. 3)* creates a new Human Services Article of the Annotated Code. It revises and combines various laws relating primarily to programs in the Departments of Human Resources, Disabilities, Aging, and Juvenile Services, as well as laws concerning children, youth, and families.

In addition to replacing substantial portions of Article 88A – Department of Human Resources, the new article replaces the following articles of the Annotated Code in their entirety:

- Article 30 – Deaf, Mute, or Blind
- Article 49C – Maryland Commission for Women
- Article 49D – Children, Youth, and Family Services
- Article 70B – Department of Aging
- Article 83C – Juvenile Services

*Senate Bill 7 (Ch. 8)*, a companion bill to the revision, corrects cross-references to the new Human Services Article that appear in other parts of the Annotated Code of Maryland.

### **Annual Corrective and Curative Bills**

Because the General Assembly delegates very little editorial control to the publishers of the Annotated Code with respect to making nonsubstantive and technical changes in the Code, the Department of Legislative Services has long had the statutory authority to prepare legislation to make these sorts of changes both in the statutory text and bill titles of prior years' enactments.

These corrective measures are the Annual Corrective Bill, *Senate Bill 150 (Ch. 5)*, and the Annual Curative Bill, *Senate Bill 33 (Ch. 4)*, respectively. Neither enactment contains any substantive change.

### **Department of Legislative Services**

#### **Submission of Publications to the General Assembly**

In an effort to save paper and promote governmental efficiency, State agencies are prohibited (with certain exceptions) from sending copies of a report to every member of the General Assembly or of a committee. Instead, five copies are sent to the Department of Legislative Services Library, and the library sends a list of those publications to members. A member may then request a copy from the library. *Senate Bill 418 (passed)* rewrites and clarifies the provision in keeping with its existing intent.

#### **Cost of Textbooks for Higher Education**

In light of the very high cost of typical textbooks for undergraduate, graduate, and community college student textbooks, the General Assembly has directed the Department of Legislative Services to study and compile information about the issue. *House Bill 204 (passed)* requires the department to submit the results of its study to the Senate Education, Health, and Environmental Affairs and the House Ways and Means committees by November 1, 2007.

### **Joint Legislative Committees and Task Forces**

#### **Base Realignment and Closure**

In 1990, Congress created the Base Realignment and Closure (BRAC) process to address an excess capacity of military facilities. BRAC calls for the appointment of an independent commission that evaluates the military's needs and offers recommendations. In 2005, BRAC announced a plan under which Maryland will gain approximately 16,000 Department of Defense military and civilian jobs, phased in from 2005 to 2011. Most of the gains are at Aberdeen Proving Ground, Fort Meade, and the newly renamed Walter Reed National Military Medical Center and are expected to be highly skilled, well-paid jobs. In order to accelerate planning and development so that the State is prepared for the influx on jobs and personnel associated with the

BRAC of 2005, *House Bill 1320 (passed)* creates the Joint Committee on Base Realignment and Closure.

The joint committee is composed of six senators and six delegates. It oversees and participates in the development of systems and processes that fast-track the approval of transportation infrastructure, water and sewer infrastructure, State and local planning processes, affordable housing options, education facilities, and health care facilities and infrastructure.

The Maryland Department of Planning anticipates 28,176 new households as a result of BRAC, with the majority concentrated in Harford (26 percent), Anne Arundel (18 percent), and Baltimore (14 percent) counties, followed by Baltimore City (10 percent), Montgomery (9 percent), Cecil and Prince George's (8 percent each), and Howard (7 percent) counties.

### **Unemployment Insurance Oversight**

A law enacted in 2005 (Chapter 169) created the Committee on Unemployment Insurance Oversight to study the condition of the unemployment insurance system resulting from the effects of that 2005 enactment, which replaced the experienced tax rates and flat rate surcharge system with a single overall experienced tax rated system and increased the maximum weekly benefit amount. The committee was authorized to examine the need for additional alterations to the system, including the charging and taxation provisions and the eligibility and benefit provisions, and was required to make its final recommendations and terminate by December 31, 2006.

*Senate Bill 720/House Bill 1031 (Chs. 50 and 51)* re-establish the committee, within the Legislative Branch, as the Joint Committee on Unemployment Insurance Oversight. As with its predecessor, the joint committee will study the condition of the unemployment insurance system as a result of the implementation of Chapter 169 of 2005. The joint committee may examine the need for additional alterations to the system, including charging and taxation provisions and the eligibility and benefit provisions. In addition to three senators and three delegates, the joint committee includes representatives from the Executive Branch, the private business sector, organized labor, and the academic community. It will report findings and recommendations by December 31 of each year and terminates on December 31, 2010.

### **Workers' Compensation**

*House Bill 184 (passed)* increases the membership of the Joint Committee on Workers' Compensation Benefits and Insurance Oversight to include a member, appointed jointly by the President of the Senate and Speaker of the House of Delegates, who is certified by the Workers' Compensation Commission as a Maryland rehabilitation service provider.

### **New Study Committees and Task Forces with Legislative Membership**

Each year, the General Assembly creates temporary study committees and task forces to conduct in-depth studies of important issues that are not possible to undertake during the

legislative session because of the pace of activities. The following bills relate to study committees and task forces that include members of the General Assembly in their membership.

### **Health Care Access and Reimbursement**

*Senate Bill 107 (passed)* is an Administration bill that establishes a Task Force on Health Care Access and Reimbursement. The task force, which includes two senators and two delegates, will study a variety of issues relating to reimbursement rates to physicians and other health care providers, provider shortages, and the practices of health insurance carriers.

### **Education – Civic Literacy**

A 2006 enactment (Chapter 424) established the Task Force to Convene a Summit on Civic Literacy in Maryland, for the purpose of developing a plan for enhancing civic engagement and literacy in the State. The summit was held on January 4, 2007, and recommended that a commission be established to continue its work. *Senate Bill 492 (passed)* establishes a Commission on Civic Literacy to promote civic education in schools. The commission's duties include developing a program to educate students, building professional civic education networks, and establishing an Internet-based clearinghouse of civic education resources. The membership includes the President of the Senate, the Speaker of the House, the Chair of the Senate Education, Health, and Environment Committee, and the Chair of the House Ways and Means Committee (or their respective designees).

### **Education – Certification**

*Senate Bill 58/House Bill 274 (both passed)* establish a Study Commission to Explore the Expanded Application of State Stipends for National Certification of Teachers. Membership of the commission includes one member of the Senate and one member of the House of Delegates. The bills require the commission to assess the rigor of national certification for speech-language pathologists, occupational therapists, psychologists, physical therapists, school counselors, and other school system personnel to determine how these national certifications compare to national certification for teachers. The commission will then make recommendations by December 31, 2007, regarding whether the stipends currently awarded to teachers who have obtained national certification should be expanded to include these other professionals.

### **Group Homes**

The Task Force to Study Group Home Education and Placement Practices is established by *Senate Bill 476 (passed)*. Membership on the task force includes two senators and two delegates. The task force will make recommendations for future requirements for the placement of children in programs licensed by the State after considering funding issues, the educational needs of youth served by group homes, and the feasibility and impact of having separate programs and facilities for children placed by different State agencies.

### **Support for Individuals with Developmental Disabilities**

Under *Senate Bill 485/House Bill 1009 (Chs. 33 and 34)*, the Task Force to Study the Developmental Disabilities Administration Rate Payment Systems is established, with membership that includes one senator and one delegate. The task force must report its findings and recommendations by December 31, 2007.

### **Cultural Competency of Mental Health Professionals**

The Mental Hygiene Administration and the Office of Minority Health and Health Disparities, under the provisions of *House Bill 524 (passed)*, are to collaborate with the Mental Health Transformation Working Group in convening a Workgroup on Cultural Competency and Workforce Development for Mental Health Professionals. The new workgroup is to be composed of relevant professional licensing boards, mental health provider groups, consumer and advocacy groups, and State and other organizations that represent minority health professionals. Representation of the Senate and House of Delegates is also to be provided on the workgroup. The charge of the group is to examine barriers to licensure or certification of foreign-born and foreign-trained mental health professionals and to recommend initiatives that will accomplish enhanced access to culturally sensitive and competent mental health services.

### **Foster Care on the Eastern Shore**

*House Bill 397 (passed)* establishes the Eastern Shore Task Force on Foster Care. Two of the members are delegates who represent the Eastern Shore, and one is a senator who represents the Eastern Shore. The task force will consider ways to enhance the recruitment and retention of foster parents on the Eastern Shore and will present a final report by the end of 2008.

### **Empowerment Zones for Seniors**

In the first two decades of this century, the population of Marylanders over age 60 will increase by an estimated 74 percent, to nearly 1.4 million. Older adults overwhelmingly report that they wish to remain in their homes and communities, rather than move to an institutional setting. The fiscal 2007 budget included \$500,000 to establish a Naturally Occurring Retirement Community (NORC) program in the Department of Aging. A NORC is a community or neighborhood where residents can “age-in-place” among other seniors who reside there. A NORC supportive services program provides social opportunities, transportation, and linkage to services. A NORC targets individuals in a defined geographical area with a critical mass of low-to moderate-income seniors.

*Senate Bill 611/House Bill 605 (both passed)*, establish a Statewide Empowerment Zones for Seniors Commission to direct financial and regulatory incentives to local communities that develop qualifying comprehensive empowerment zones for seniors plan to enhance aging-in-place services and facilitate the personal independence and civic and social engagement of seniors in the community. A livable community for seniors is one that has affordable and appropriate housing, supportive community features and services, and adequate mobility options, which together facilitate personal independence and the engagement of residents in civic and

social life. By combining the individual service focus of the NORC with the comprehensive neighborhood scope of livable communities, the empowerment zones for seniors will promote successful aging, forestall premature institutionalization, identify “at-risk” elderly ensuring they receive the services they need, and increase participation and interaction among seniors.

The commission includes a senator and a delegate among its members.

### **Boating Industry in Maryland**

Having the invaluable resource of the Chesapeake Bay, Maryland has traditionally been home to a significant boating industry. *Senate Bill 165/House Bill 305 (both passed)* establish the Task Force to Study the Boating Industry in Maryland to further encourage that sector of the economy. Membership includes one senator and one delegate. The task force is charged with evaluating incentives to encourage large boats and yachts to use marinas and boatyards for recreation, repair, and outfitting within the State; determining ways to encourage and promote tourism throughout waters of the State; researching the economic impact that marine industries and recreational boaters contribute to the State’s economy; and identifying barriers that limit the State’s competitiveness with other states and developing methods to overcome those barriers.

### **Working Waterfront Commission**

Under the provisions of *Senate Bill 414 (passed)*, the Working Waterfront Commission is to be created to study and make recommendations on protecting and preserving the access to public trust waters by the commercial fishing industry in Maryland. One senator and one delegate are to be appointed to serve on the commission along with the other members.

### **Property Insurance in Coastal Areas**

The Allstate Insurance Company recently announced that it might stop issuing new property insurance policies along coastal areas of the State. Allstate represents a 13.7 percent market share in Maryland, and other insurers have suggested that they would follow that company’s lead. In order to address this issue, *House Bill 1442 (passed)* creates the Task Force on the Availability and Affordability of Property Insurance in Coastal Areas. One senator and three delegates serve on the task force. The purpose of the task force is to examine methods to ensure the continued availability and affordability of property insurance in coastal areas of the State.

### **Drunk and Drugged Driving**

According to the U.S Department of Transportation, alcohol-impaired driving is one of the nation’s deadliest crimes. In 2005, 614 traffic fatalities occurred in Maryland, of which 235 were alcohol-related. In order to identify ways of addressing this situation, the General Assembly adopted *Senate Bill 198 (passed)*. The bill creates the Task Force to Combat Driving Under the Influence of Drugs and Alcohol, with a membership that includes a member of the Senate and a member of the House of Delegates. The task force is required to report its findings by the end of 2008.

### **Prison Violence**

According to a recent report, from July 1 to September 30, 2006, Maryland’s Division of Correction had 155 inmate-on-staff assaults and 457 inmate-on-inmate assaults. To address this issue, *Senate Bill 69 (passed)* creates the Task Force to Study Prison Violence in Maryland. A senator and a delegate are included among the members. A final report is required to be issued by December 31, 2008.

### **Maryland Clean Cars and Energy Policy**

As part of the legislation relating to “clean cars” – *Senate Bill 103/House Bill 131 (both passed)* – the Maryland Clean Car and Energy Policy Task Force is to be created to review proposals and strategies to develop alternative vehicle fuels and efficient measures that will improve the air quality of the State. The task force is to include one senator and one delegate, both of whom will serve as co-chairs.

### **Alternative Fuels**

According to the U.S. Energy Information Administration, in 2005 the United States imported 60 percent of its oil and the percentage is increasing. The use of domestically produced renewable fuels such as “biodiesel,” a diesel fuel made from fats and oils, could help reduce the nation’s dependence on foreign oil and have environmental benefits. To study ways of promoting the production, sale, and use of biodiesel and other alternative fuels in Maryland, *Senate Bill 261 (passed)* establishes the Task Force on Renewable Alternative Fuels, which has one member of the Senate and one member of the House of Delegates among its members.

### **Prince George’s County**

Three newly created task forces with legislative membership are specific to the needs of Prince George’s County.

*Senate Bill 112/House Bill 629 (both passed)* create the Task Force on the Establishment of Vocational and Technical Education High School Academies in Prince George’s County. One senator and two delegates are included among the task force members.

The Task Force to Study Rent Stabilization for the Elderly in Prince George’s County is established under *House Bill 627 (passed)*. The chair of the county’s Senate Delegation appoints two senators as members of the task force, and the chair of the House Delegation appoints two delegates.

*House Bill 636 (passed)* establishes the Task Force to Improve Child Support Compliance in Prince George’s County. One senator and one delegate are members of the task force.

## Program Evaluation (“Sunset Review”)

The Maryland Program Evaluation Act, enacted in 1978, is utilized by the General Assembly as a mechanism to monitor and evaluate approximately 70 regulatory boards, commissions, and other agencies of the Executive Branch of State government. The Department of Legislative Services (DLS) is required under this law to periodically undertake the evaluations according to a statutorily based schedule. These evaluations are more commonly known as “sunset review” because the agencies subject to review are usually also subject to termination (“sunset”) unless legislation is enacted to reauthorize them. The methodology for conducting the evaluations by DLS involves an extensive evaluation process by DLS staff. The goals of the process have evolved to reflect the General Assembly’s interest in identifying the strengths and weaknesses of the various regulatory entities that are subject to program evaluation and addressing through legislation appropriate issues relating to the structure, performance, and practices of the agencies.

This session, the termination and/or evaluation dates on the following regulatory agencies were extended:

- *Senate Bill 255/House Bill 282 (both passed)*, provide for an evaluation of the State Board of Physicians by 2012 and extend the termination date until 2013. The bills also make various substantive changes in the law, described in Part J – Health of this *90 Day Report*.
- A program evaluation of the Health Services Cost Review Commission will be required by 2017 under *House Bill 844 (passed)*. The commission does not have a termination date.
- The Maryland Health Care Cost Commission also does not have a termination date, and, under *House Bill 800 (passed)*, its evaluation is also set for not later than 2017.
- *Senate Bill 741 (passed)* extends the Office of Cemetery Oversight until 2013, with an evaluation by 2012.