

Part C

State Government

Anti-Terrorism

2002 Anti-Terrorism Legislative Package

In response to the tragic events of September 11, 2001, a package of bills to address terrorism was introduced to ensure that the State has an adequate and coordinated strategy for detecting, preventing, preparing for, responding to, and recovering from a terrorist attack. These bills were recommended by a joint task force appointed by the Governor, President of the Senate, and Speaker of the House to study the State's laws in the area of terrorism and related topics. The task force consisted of three senators, three delegates, and four representatives of the Executive Branch and was chaired by Colonel David B. Mitchell, Secretary of State Police.

Maryland Emergency Management Assistance Compact

Senate Bill 239 (Ch. 2)/House Bill 293 (passed) establish a Maryland Emergency Management Assistance Compact to provide for mutual assistance in managing an emergency among jurisdictions entering into the compact. The local jurisdictions eligible to join the compact are the 23 counties, Baltimore City, and Ocean City. The Act states that it is the intent of the General Assembly that the jurisdictions eligible to enter into the compact shall adopt it by June 1, 2003. For a more detailed discussion of this Act, see Part E - Crimes, Corrections, and Public Safety of this *90 Day Report*.

Access to Public Records – Public Security Documents

Senate Bill 240 (Ch. 3)/House Bill 297 (passed) authorize a custodian of a public record to deny inspection of: (1) specified response procedures or plans prepared to prevent or respond to emergency situations; (2) specified building plans, blueprints, schematic drawings, diagrams, operational manuals, or records of other buildings or

structures operated by the State or any of its political subdivisions; or (3) specified records prepared to prevent or respond to emergency situations. The custodian may deny inspection of a part of such a public record only to the extent that the inspection would: (1) jeopardize the security of a structure owned or operated by the State or any of its political subdivisions; (2) facilitate the planning of a terrorist attack; or (3) endanger the life or physical safety of an individual.

The Attorney General is required to review the changes made by the Act to the access to public records law and to submit a report to the Governor and the General Assembly by December 1, 2007, on the continued necessity of the Act and any recommendations for changing or modifying it.

See the discussion of this Act under the subpart “Regulations and Procedures” within this Part C.

Governor’s Emergency Powers

Senate Bill 235 (passed)/House Bill 303 (Ch. 5) are emergency measures that alter and clarify the powers of the Governor and other State and local officials during a state of emergency. This Act is based on recommendations of the Office of the Attorney General and the Anti-Terrorism Workgroup. For a more detailed discussion of this Act, see Part E - Crimes, Corrections, and Public Safety of this *90 Day Report*.

Higher Education – Edward T. Conroy Memorial Scholarship Program – Eligibility

Senate Bill 237/House Bill 300 (both passed) expand the eligibility of the Edward T. Conroy Memorial Scholarship Program to allow the child or surviving spouse of a victim of the September 11, 2001, terrorist attacks to receive an award under the program. The child of a victim must be at least 16 years old to receive an award. The combined value of scholarship awards received during a single year by a child or spouse of a victim through the Conroy Scholarship program and any other scholarship programs targeting the children and spouses of victims may not total more than the equivalent annual tuition and mandatory fees at the University of Maryland, College Park. See the discussion of these bills under Part L - Education of this *90 Day Report*.

Agriculture – Infectious and Contagious Diseases – Administrative Search Warrants

Senate Bill 236 (passed)/House Bill 304 (Ch. 6) authorize the Secretary of Agriculture, or the Secretary’s designee, to apply to a judge for an administrative search warrant to enter specified premises to conduct an inspection to determine compliance with the laws relating to regulation and prevention of infectious and contagious livestock and poultry diseases. The Act establishes procedures for filing and executing the search warrant, requirements for the contents of the warrant, and requisite conditions for a judge

to issue the warrant. Probable cause must be shown of an existing violation of the laws relating to infectious and contagious livestock and poultry diseases. Any information obtained pursuant to the warrant shall be considered confidential and may not be disclosed except to the extent it is used in an administrative or judicial proceeding.

The Department of Agriculture has not needed to obtain search warrants in the past to gain access to premises for inspection, although it has, on rare occasion, utilized police to accompany inspectors. Notwithstanding this fact, the introduction (whether accidental or intentional) of a highly contagious animal or poultry disease could have a significant economic impact on the State, warranting a need for officials to be able to respond quickly and efficiently. According to the department's *Agriculture in Maryland Summary for 2000-2001*, in 2000 Maryland farms counted 235,000 cattle worth \$202 million, 58,000 hogs and pigs worth \$4.35 million, about 84,000 dairy cows producing milk worth \$181 million, 283 million broiler chickens worth \$462 million, and 440,000 turkeys worth \$6.45 million. The Department of Agriculture is working on a new State Animal Disease Emergency Management Plan to establish response protocols and procedures for containment of animal or poultry disease.

For additional discussion of this Act, see Part K - Natural Resources, Environment, and Agriculture of this *90 Day Report*.

Maryland Security Protection Act of 2002

Senate Bill 639/House Bill 1036 (both passed) establish a number of provisions to enhance State security, including:

- authorizing “roving wiretaps” by establishing procedures for the interception of communications involving a particular individual instead of a particular location or instrument of communication;
- authorizing a license holder of a nuclear power plant facility in the State, under a heightened level of security condition ordered by the federal government, to authorize a security officer to stop and detain an individual who commits a crime on facility property;
- authorizing the expanded emergency jurisdiction of the Maryland Transportation Authority Police to various transportation agency properties and immediate areas when ordered by the chairman of the Maryland Transportation Authority with the approval of the Governor or when ordered to do so by the Governor on declaring a state of emergency;
- requiring the Maryland Aviation Administration to adopt rules and regulations requiring the use of security identification badges in airports and established penalties for misuse; and

- creating a new crime of knowingly or fraudulently obtaining a commercial driver's license by misrepresentation and enhancing penalties for existing commercial driver's license violations.

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

Catastrophic Health Emergencies

Senate Bill 234 (Ch. 1)/House Bill 296 (passed) are emergency administration measures which authorize the Governor to proclaim the existence of a catastrophic health emergency. The Act also authorizes the Secretary of the Department of Health and Mental Hygiene to exercise certain duties in order to maintain a catastrophic health emergency disease surveillance and response program and to submit a report by December 31, 2002, on any plans, procedures, or protocols developed as a result of this bill. The report must be updated every three years or when any provision of this bill is used to detect a catastrophic health emergency.

The Act requires the Governor, on issuance of an Executive Order proclaiming a catastrophic health emergency, to order the Secretary of Health and Mental Hygiene to take certain actions, including ordering individuals to obtain treatment and quarantines of individuals to prevent the spread of disease. The Governor may order any health care practitioner who does not voluntarily participate to participate in disease surveillance and treatment. The Governor may order the evacuation and closure of facilities and order the public to remain indoors or refrain from congregating. The Secretary may also order treatment and quarantines when investigating actual or potential exposures to deadly agents. The Act provides various due process protections to individuals, including notice, the right to court-appointed counsel, and court hearings and determinations in the event that any of the above actions are taken. The Act provides penalties for failure to comply with orders made under the Act.

Under the Act, the Secretary of Health and Mental Hygiene must continuously evaluate procedures concerning catastrophic health emergencies and must develop protocols in conjunction with health care practitioners. The Secretary may require health care facilities to prepare for a catastrophic health emergency. The Secretary may require health care practitioners to report information on certain diseases. Any information obtained by the Secretary is confidential and may only be used to ensure the public safety. A health care provider who acts in good faith under this Act is immune from civil or criminal liability, unless the individual acts with willful misconduct.

After an executive order proclaiming a catastrophic health emergency is rescinded, the State must make reasonable efforts to determine the costs associated with health care providers' compliance with the proclamation and include the providers in any application for State and federal financial aid as appropriate.

To implement this Act, the Secretary must work with the Maryland Emergency Management Agency, the Maryland Institute for Emergency Medical Services Systems, health care providers including the Association of Maryland Hospitals & Health Systems, and the Maryland State Medical Society, and other interested parties.

See a further discussion of this bill in subpart “Public Health” under Part J - Health of this *90 Day Report*.

Maryland National Guard Readiness Act

House Bill 292 (passed) grants members of the Maryland National Guard who are called to State active duty the same protections that are afforded a member of the National Guard under federal law. These protections include re-employment rights, civil relief protections, and a death benefit in the amount of \$100,000. The death benefit is not payable if there is eligibility for dependency and indemnity compensation under federal law.

See a further discussion of this bill under the subpart “State Agencies, Offices, and Officials” within this Part C.

Maryland Security Council

Senate Bill 242 (Ch. 4)/House Bill 305 (passed) are emergency administration measures which create a 15-member Maryland Security Council charged with working with State agencies, other state governments, local governments, federal agencies, and private entities in the development of emergency management plans. The Maryland Emergency Management Agency currently carries out the operational functions of the State’s emergency response plan such as operating the Emergency Operations Center and ensuring that the State has the ability to access and deploy necessary resources. In contrast, the new Maryland Security Council will be responsible for advising the Governor with regard to the State’s level of preparedness to respond to an emergency. The Council will also coordinate strategies for detection, prevention, preparation, response, and recovery among responsible parties.

See a further discussion of this bill under the subpart “State Agencies, Offices, and Officials” within this Part C.

State Agencies, Offices, and Officials

September 11, 2001

In the wake of the horrific events of September 11, 2001, the General Assembly in the 2002 session considered several measures to honor the victims and heroes of that day and to prevent or respond to any similar attacks in the future.

Maryland Day of Remembrance

Senate Joint Resolution 1/House Joint Resolution 13 (both passed) designate September 11 as the Maryland Day of Remembrance of the September 11, 2001 terrorist attacks, recognizing the thousands of innocent Americans who were killed and injured as a result of these attacks, including the passengers and crew of the four aircraft, workers in the World Trade Center and in the Pentagon, rescue workers, and bystanders. The resolutions also provide that on September 11 and throughout the year, parents and educators are encouraged to teach their children and students that the ideal of liberty in the United States, which the terrorists attempted to destroy on September 11, 2001, remains unscathed.

The Governor's Response to September 11 – Maryland Security Council

In an effort to prepare a legislative response to terrorism and related topics, the Governor, Speaker of the House, and President of the Senate appointed a joint task force to study the laws of the State in this area and make recommendations for changes. A detailed discussion of the Anti-Terrorism Workgroup's legislative package can be found under the subpart "Anti-Terrorism" within this Part C. *Senate Bill 242 (Ch. 4)/House Bill 305 (passed)* are part of the package of bills recommended by the workgroup.

Senate Bill 242/House Bill 305 establish a 15-member Maryland Security Council within the Executive Department, to assist the Governor in ensuring that the State maintains an adequate and coordinated strategy for dealing with emergencies in the State. The Act redefines "emergency" as the threat or occurrence of any storm, flood, drought, explosion, or other catastrophe which requires State emergency assistance to supplement local efforts in order to save lives and protect public health; or the threat or occurrence of an enemy attack, act of terrorism, or public health catastrophe whether or not beyond local control. The council is similar in concept to the federal Office of Homeland Security and offices recently created in other states.

The council's duties are to: (1) work with State agencies, other state governments, local governments, federal agencies, and private entities in the development of appropriate and necessary emergency management plans; (2) periodically review and assess the adequacy of all emergency management plans developed by State agencies and, as requested, by local governments and private entities; (3) recommend changes to any emergency management plan and coordinate revisions to any emergency management plan submitted to the council; and (4) ensure, to the extent possible, that all appropriate and necessary information relating to the State's emergency management strategy is disseminated to and exchanged among appropriate entities.

The council may not be construed to exercise operational authority over the State's emergency management response, except as directed by the Governor.

Recognition of the Maryland National Guard's Response to September 11

Approximately 2,500 Marylanders are on active duty outside Maryland or have been called to active duty in the State due to security responses to the September 11 terrorist attacks. Additional military personnel are currently serving in Afghanistan, Bosnia, Germany, and the Philippines.

House Bill 292 (passed) grants State death benefits of \$100,000 to the surviving spouse, children, or dependent parents of Maryland National Guard members serving on State active duty who are killed in the performance of their duties on or after September 11, 2001. However, the death benefit may not be paid if the member is eligible to receive dependency and indemnity compensation under rules prescribed by the U.S. Department of Veterans Affairs. In addition, the bill adopts federal laws that grant members of the Maryland National Guard who are called to active duty by the Governor on or after September 11, 2001 reemployment rights under the Uniformed Services Employment and Reemployment Rights Act and civil protections under the Soldiers' and Sailors' Civil Relief Act of 1940.

House Bill 341 (passed) requires that individuals ordered into active service for the Maryland National Guard in response to the September 11 attacks receive a service bar depicting the State flag and "9-11."

Maryland National Guard

Two bills were passed that provide enhanced benefits to members of the Maryland National Guard and honor guard members that are not directly linked to the events of September 11, 2001. The first, *House Bill 899 (passed)*, authorizes the Military Department to provide tuition assistance to members of the Maryland National Guard equaling 50 percent of the cost of in-state tuition for vocational-technical or trade course work at a public postsecondary vocational-technical or trade school or at a private postsecondary vocational-technical or trade school that grants a member of the National Guard a tuition waiver of at least 50 percent.

The second, *House Bill 430 (passed)*, provides that reasonable compensation for National Guard Honor Guard members is set by the Adjutant General based on the availability of funds in the budget. However, the bill stipulates that reasonable compensation may not exceed the greater of: (1) 100 percent of one day's pay (as determined by the current Department of Defense pay scale), plus expenses or (2) the minimum wage required by State law, plus expenses.

Veterans

Senate Bill 666/House Bill 1296 (both passed) alter the membership of the Maryland Veterans Commission by removing the member from the Veterans of World War I and adding a member who is a veteran of the Persian Gulf War and a member from the Veterans of the Battle of the Bulge. The Maryland Department of Veterans Affairs advises that no living member of the Veterans of World War I organization currently resides in Maryland.

House Bill 237 (passed) requires the placement of a plaque on the grounds of the State House in honor of the Bataan Death March during World War II.

House Joint Resolution 26 (passed) provides that the General Assembly acknowledges and appreciates the important role played by Filipino veterans in World War II and urges the United States Congress to pass the Filipino Veterans Equity Act without delay.

American Indians

Three measures were passed by the General Assembly in the 2002 session addressing the American Indians living in Maryland and the Commission on Indian Affairs. Based on the 2000 census, there are 15,423 American Indians and Native Alaskans living in Maryland, or 0.3 percent of the State's population.

Senate Joint Resolution 4/House Joint Resolution 4 (both passed) designate November as “American Indian Heritage Month.” The resolution calls for schools, libraries, State and local governments, and other organizations within the State to appropriately observe this month. It also resolves that State and local governments should use the month of November to assess the ways to improve understanding, cooperation, and communication with American Indians, especially those within Maryland.

House Bill 342 (passed) changes the process for granting formal recognition of Maryland Indian status. Upon a determination by the Commission on Indian Affairs that a particular tribe, band, group, or clan has met the requirements for formal recognition of Maryland Indian status, the commission shall submit to the Secretary of the Department of Housing and Community Development, for transmittal to the Governor, a recommendation for formal recognition. The Secretary shall transmit the recommendation within 60 days to the Governor, who shall make a decision whether to grant formal recognition or not within 120 days of receiving the recommendation. In addition, the Governor must comply with these provisions within 120 days of October 1, 2002, regarding any recommendation transmitted to the Governor between January 1, 2001, and October 1, 2002.

Information Technology

Major Information Technology Development Projects

Currently, a unit of the Executive Branch may not purchase, lease, or rent Information Technology (IT) unless it is consistent with the statewide IT master plan. The Secretary of Budget and Management may review any IT project for consistency with the master plan. An IT project selected for review may not be implemented without the Secretary’s approval.

The Information Technology Investment Fund (ITIF) is a special, nonlapsing fund subject to a ceiling on the amount of moneys that may be credited to it during a fiscal year. The IT chief is responsible for administering ITIF and overseeing projects funded with moneys from ITIF.

Senate Bill 491/House Bill 835 (both passed) restructure the current process and require a unit of the Executive Branch of State government to obtain approval from the Chief of Information Technology before making expenditures for a major information technology development project. The bills also replace the ITIF with the Major Information Technology Development Project Fund. Under the bills, a major information technology development project is an IT development project that: (1) has a total estimated development cost of at least \$1 million; (2) is undertaken to support a critical business function associated with the public health, education, safety, or financial

well-being of Maryland's citizens; or (3) the Secretary of Budget and Management has determined to require special attention and consideration.

State Commission on Public Safety Technology and Critical Infrastructure

House Bill 1265 (passed) establishes a 19-member State Commission on Public Safety Technology and Critical Infrastructure to: (1) make recommendations to the Chief Judge of the Court of Appeals to ensure the compatibility and interoperability of communication and information management systems maintained by the Judicial Branch; (2) adopt regulations to ensure the compatibility and interoperability of systems maintained by State and local public safety units, as well as accessibility by other appropriate entities to public safety and criminal justice databases; (3) recommend standards and procedures to ensure the compatibility and interoperability of communication and information management systems maintained by local public safety units; and (4) propose legislation to the General Assembly to implement the recommendations regarding compatibility and interoperability of communication and information management systems maintained by local public safety units. The bill terminates at the end of June 30, 2006.

Equal Access to State Agencies – Individuals with Limited English Proficiency

With almost 20,000 immigrants entering Maryland each year, the State's diversity has increased dramatically. Recent immigrants represent 179 countries and 82 foreign languages. Based on the 2000 census, 13 percent of Marylanders over the age of five speak a language other than English at home. Approximately 4 percent of Marylanders speak Spanish, 4 percent speak other Indo-European languages, 3 percent speak an Asian/Pacific Islander language, and 1 percent speak other languages.

Statewide, almost 250,000 Marylanders have limited English proficiency, representing 5 percent of the State's population. Of individuals who have limited English proficiency, 39 percent speak Spanish, 30 percent speak an Asian/Pacific Islander language, 26 percent speak an Indo-European language besides Spanish, and 6 percent speak other languages. Over 46 percent of Spanish-speaking Marylanders have limited English proficiency and 31 percent of individuals who speak an Indo-European language besides Spanish have limited English proficiency. For individuals who speak an Asian/Pacific Islander language, 51 percent have limited English proficiency. Sixty-one percent of individuals with a limited English proficiency reside in Montgomery and Prince George's counties. Approximately 25 percent of individuals with a limited English proficiency reside in Baltimore City and Anne Arundel and Baltimore counties.

Senate Bill 265/House Bill 1174 (both passed) require State agencies to take reasonable steps to provide equal access to public services for individuals with limited

English proficiency. Reasonable steps to provide equal access include the provision of oral language services for individuals who cannot adequately understand or express themselves in spoken or written English and the translation of vital documents ordinarily provided to the public into any language spoken by any limited English proficient population that constitutes 3 percent of the overall State population within the geographic area served by a local office of a State program. The term “vital documents” excludes applications and examinations related to licensure, certification, or registration.

Since Montgomery and Prince George’s counties are the only jurisdictions in which over 3 percent of the population consists of Spanish-speaking individuals with limited English proficiency, only the State programs operating in those counties are required to translate into Spanish the vital documents ordinarily provided to the public. The Department of Human Resources, in consultation with the Office of the Attorney General, must provide central coordination and technical assistance to State agencies and programs. The bills require State agencies listed in a four-year schedule of compliance to take specified steps to provide equal access. All other State agencies must monitor themselves to determine what steps they should take to provide equal access.

Council on Management and Productivity

The Council on Management and Productivity, within the Department of Budget and Management, is an advisory council that was placed in statute in 1996 and charged with reviewing and evaluating State government organizational structure and management practices to more efficiently manage State government resources.

Senate Bill 104 (passed) extends the termination date of the Council of Management and Productivity until July 1, 2007. The bill also reduces the number of members of the council from 25 to 19, staggers the terms of the members, and permits a member to be removed for incompetence, misconduct, or failure to attend meetings. The responsibilities of the council are extended to include facilitating the use of best practices by State agencies.

State Lottery

Multijurisdictional Lottery

Senate Bill 93 (passed) is a departmental bill authorizing the Director of the State Lottery, with the approval of the Lottery Commission and the Legislative Policy Committee, to enter into agreements to operate multijurisdictional lotteries with political entities outside the United States or private licensees of a state or a foreign nation.

For a more detailed discussion of this bill, see the subpart “Horse Racing and Gaming” under Part H – Business and Economic Issues of this *90 Day Report*.

Elections

Campaign Finance

Public Financing of Campaigns

Under State law, a system of public financing of elections is in place for gubernatorial candidates. The system is administered through the Fair Campaign Financing Fund, which is funded through a tax check-off system. *Senate Bill 471/House Bill 538 (both passed)* create a 15-member commission to study public funding of State legislative campaigns. The bills require the commission to collect information regarding current practice in Maryland and in other jurisdictions and determine the necessary statutory changes that would be needed to implement such a system. The commission is required to report its findings to the Governor and General Assembly by December 31, 2002.

Contributions

Contributor Information: Senate Bill 339/House Bill 912 (both failed) would have required that political committees request and report the full name, mailing address, employer, and occupation of contributors who have contributed over \$251 during a four-year election cycle.

Political Action Committees: Chapter 158 of 2001 allowed employee unions or groups and membership organizations to obtain by payroll deduction contributions from their members designated for their affiliated political action committees (PACs). *House Bill 1249 (passed)* allows these employee unions and membership organizations to send designated contributions directly to their affiliated State and local chapters as opposed to their affiliated PACs. State and local entities are required to transfer these contributions to their affiliated PACs within five days.

Reporting Requirements

Annual Campaign Finance Report: The Governor, Lieutenant Governor, Attorney General, and members of the General Assembly are required to file four campaign finance reports on contributions and transfers. A fifth report is due at the end of each four-year election cycle. In any election year, the fourth report is due in November and the following report is not due to be filed until after the General Assembly has adjourned for the year. Since many State lawmakers engage in fundraising activity between the filing of the last report of the year and the start of the legislative session in January (there is a fundraising moratorium during session), the General Assembly addressed this issue in *Senate Bill 721/House Bill 383 (both passed)*. The bills alter the date of the annual campaign finance report from November to the third Wednesday in

January. The timing of this report discloses the fundraising activity of campaigns just prior to a legislative session.

Election Law

Code Revision

Senate Bill 1 (passed) creates a new Election Law Article, replacing the State election code. This code revision is one of three major code revisions undertaken and passed by the General Assembly this year, the others being Criminal Law (see subpart “Criminal Law” of Part E - Crimes, Correction, and Public Safety of this *90 Day Report*) and Electric Cooperatives (see subpart “Corporations and Associations of Part I - Financial Institutions, Commercial Law, and Corporations of this *90 Day Report*). The bill, along with *Senate Bill 176 (passed)*, revises, restates, recodifies, and corrects current laws relating to elections. The basic thrust of the revision is the modernization and clarification of the law. Topics included in the new Election Law Article are: powers and duties of State and local boards of election, voter registration, political parties, candidates, petitions, questions, elections, voting, polling places, canvassing, contested elections, offenses and penalties, campaign finance, disclosure, and public financing of elections.

Conduct of Elections

Chapter 424 of 2001 authorized the use of provisional ballots in conjunction with a system of continuous registration for voters, which allows voters to maintain their voter registration status when moving from one county to another. This statute was part of a recommended overhaul of election law proposed by the Governor’s Special Commission on Voting Systems and Election Procedures in February 2001. Under State law, provisional ballots can be distributed at polling places on election day to voters who are not on a precinct registration list and who have made an attempt to change their registration at a voter registration agency. Qualified voters are required to fill out a certificate of temporary registration and vote using a provisional ballot. Local boards of election must determine after an election each provisional voter’s eligibility and count all eligible provisional ballots. *House Bill 871 (passed)* requires local boards to send provisional voters a written confirmation of whether their ballot was accepted or rejected, if a voter makes a request within 10 days after an election.

House Bill 1046 (passed) addresses several election administration issues brought on by the newly enacted provisional ballot and uniform voting systems law (Chapter 564 of 2001). It allows local election boards to issue provisional ballots prior to election day and allows provisional ballots to be cast on electronic, direct recording voting equipment. It also requires the Department of Health and Mental Hygiene to report the names of individuals who are deceased.

Voting Rights - Convicted Persons

State law disenfranchises individuals who have been convicted more than once of an infamous crime. Infamous crimes are defined as treason, felonies, and crimes involving deceitfulness or falsification. With the exception of individuals convicted of certain subsequent violent crimes, *Senate Bill 184/House Bill 535 (both passed)* allow these individuals to vote three years after completing their entire court-ordered sentence including probation, parole, community service, restitution, and fines.

Baltimore City Election Dates

House Bill 139 (failed) would have altered the year in which Baltimore City elections are held to coincide with the federal presidential election beginning in 2004. Current State law requires the Baltimore City primary election to be held separately from both the gubernatorial and presidential elections. The bill would have required Baltimore City to have a September primary (after the early presidential primary in March) and a joint presidential and municipal general election in November.

Legislative and Congressional Redistricting

Legislative Redistricting

The Maryland Constitution requires the Governor to present a legislative districting plan to the General Assembly by the first day of session in the year following the decennial census. If the General Assembly does not pass an alternative plan before the 45th day of session, the Governor's plan becomes law.

Legislative Districting Plan of 2002

As was the case after the 1990 census, the Governor appointed a Redistricting Advisory Committee in 2001 to recommend a State legislative districting plan for consideration by the General Assembly in the 2002 session. The committee consisted of four Democratic members and one Republican member as follows:

- John T. Willis; Secretary of State and Chairman of the Advisory Committee
- Thomas V. Mike Miller; President of the Senate of Maryland
- Casper R. Taylor; Speaker of the Maryland House of Delegates
- Isiah Leggett; Montgomery County Commissioner

- Louise L. Gulyas; Worcester County Commissioner (Republican)

Following 12 public hearings across the State, and numerous work sessions, the committee submitted its final recommendation to the Governor in December 2001. The Governor made minor changes to the plan and submitted it to the General Assembly as *Senate Joint Resolution 3/House Joint Resolution 3 (both enacted)*. The resolution became law for purposes of elections on February 22, 2002, pursuant to Article III, Section 5 of the Maryland Constitution after the General Assembly failed to pass an alternative plan before the 45th day of session. The plan, in effect for purposes of electing members to the General Assembly, will be effective for purposes of representation on January 7, 2003.

Based on the 2000 census, the ideal population of a senatorial district is 112,691. The ideal population for a two-member delegate district is 75,127, and 37,564 for a single-member district. The legislative districting plan of 2002 has a total plan variance of 9.91 percent, and each subdistrict deviates from the ideal population by less than 5 percent. **Exhibit C.1** lists the population and deviation for each district.

Exhibit C.1
Legislative Districting Plan of 2002

<u>District</u>	<u>Number of Members</u>	<u>Population</u>	<u>Deviation</u>	<u>% Deviation</u>
01A	1	35,716	-1,848	-4.92
01B	1	36,701	-863	-2.30
01C	1	36,009	-1,555	-4.14
Total District 1:	3	108,426	-4,266	-3.79
02A	1	39,147	1,583	4.21
02B	1	38,537	973	2.59
02C	1	39,432	1,868	4.97
Total District 2:	3	117,116	4,424	3.93
03A	2	78,772	3,644	4.85
03B	1	39,326	1,762	4.69
Total District 3:	3	118,098	5,406	4.80

<u>District</u>	<u>Number of Members</u>	<u>Population</u>	<u>Deviation</u>	<u>% Deviation</u>
04A	2	77,910	2,782	3.70
04B	1	39,429	1,865	4.96
Total District 4:	3	117,339	4,647	4.12
05A	2	77,683	2,555	3.40
05B	1	39,253	1,689	4.50
Total District 5:	3	116,936	4,244	3.77
06	3	113,685	993	0.88
Total District 6:	3	113,685	993	0.88
07	3	116,988	4,296	3.81
Total District 7:	3	116,988	4,296	3.81
08	3	114,309	1,617	1.43
Total District 8:	3	114,309	1,617	1.43
09A	2	78,104	2,976	3.96
09B	1	37,678	114	0.30
Total District 9:	3	115,782	3,090	2.74
10	3	118,179	5,487	4.87
Total District 10:	3	118,179	5,487	4.87
11	3	111,298	-1,394	-1.24
Total District 11:	3	111,298	-1,394	-1.24
12A	2	78,692	3,564	4.74
12B	1	38,856	1,292	3.44

<u>District</u>	<u>Number of Members</u>	<u>Population</u>	<u>Deviation</u>	<u>% Deviation</u>
Total District 12:	3	117,548	4,856	4.31
13	3	116,077	3,385	3.00
Total District 13:	3	116,077	3,385	3.00
14	3	107,675	-5,017	-4.45
Total District 14:	3	107,675	-5,017	-4.45
15	3	107,277	-5,415	-4.81
Total District 15:	3	107,277	-5,415	-4.81
16	3	107,658	-5,034	-4.47
Total District 16:	3	107,658	-5,034	-4.47
17	3	110,712	-1,980	-1.76
Total District 17:	3	110,712	-1,980	-1.76
18	3	107,564	-5,128	-4.55
Total District 18:	3	107,564	-5,128	-4.55
19	3	109,503	-3,189	-2.83
Total District 19:	3	109,503	-3,189	-2.83
20	3	112,807	115	0.10
Total District 20:	3	112,807	115	0.10
21	3	108,009	-4,683	-4.16
Total District 21:	3	108,009	-4,683	-4.16

<u>District</u>	<u>Number of Members</u>	<u>Population</u>	<u>Deviation</u>	<u>% Deviation</u>
22	3	107,305	-5,387	-4.78
Total District 22:	3	107,305	-5,387	-4.78
23A	2	73,512	-1,616	-2.15
23B	1	37,234	-330	-0.88
Total District 23:	3	110,746	-1,946	-1.73
24	3	108,210	-4,482	-3.98
Total District 24:	3	108,210	-4,482	-3.98
25	3	110,475	-2,217	-1.97
Total District 25:	3	110,475	-2,217	-1.97
26	3	118,093	5,401	4.79
Total District 26:	3	118,093	5,401	4.79
27A	2	77,553	2,425	3.23
27B	1	38,105	541	1.44
Total District 27:	3	115,658	2,966	2.63
28	3	112,205	-487	-0.43
Total District 28:	3	112,205	-487	-0.43
29A	1	38,945	1,381	3.68
29B	1	37,618	54	0.14
29C	1	39,229	1,665	4.43
Total District 29:	3	115,792	3,100	2.75
30	3	117,102	4,410	3.91
Total District 30:	3	117,102	4,410	3.91

<u>District</u>	<u>Number of Members</u>	<u>Population</u>	<u>Deviation</u>	<u>% Deviation</u>
31	3	115,417	2,725	2.42
Total District 31:	3	115,417	2,725	2.42
32	3	116,789	4,097	3.64
Total District 32:	3	116,789	4,097	3.64
33A	2	78,857	3,729	4.96
33B	1	38,911	1,347	3.59
Total District 33:	3	117,768	5,076	4.50
34A	2	77,979	2,851	3.79
34B	1	39,430	1,866	4.97
Total District 34:	3	117,409	4,717	4.19
35A	2	76,400	1,272	1.69
35B	1	38,898	1,334	3.55
Total District 35:	3	115,298	2,606	2.31
36	3	118,176	5,484	4.87
Total District 36:	3	118,176	5,484	4.87
37A	1	39,258	1,694	4.51
37B	2	78,818	3,690	4.91
Total District 37:	3	118,076	5,384	4.78
38A	1	39,375	1,811	4.82
38B	2	78,867	3,739	4.98
Total District 38:	3	118,242	5,550	4.92
39	3	110,145	-2,547	-2.26

<u>District</u>	<u>Number of Members</u>	<u>Population</u>	<u>Deviation</u>	<u>% Deviation</u>
Total District 39:	3	110,145	-2,547	-2.26
40	3	107,176	-5,516	-4.89
Total District 40:	3	107,176	-5,516	-4.89
41	3	107,386	-5,306	-4.71
Total District 41:	3	107,386	-5,306	-4.71
42	3	107,244	-5,448	-4.83
Total District 42:	3	107,244	-5,448	-4.83
43	3	107,441	-5,251	-4.66
Total District 43:	3	107,441	-5,251	-4.66
44	3	109,394	-3,298	-2.93
Total District 44:	3	109,394	-3,298	-2.93
45	3	107,066	-5,626	-4.99
Total District 45:	3	107,066	-5,626	-4.99
46	3	107,065	-5,627	-4.99
Total District 46:	3	107,065	-5,627	-4.99
47	3	107,822	-4,870	-4.32
Total District 47:	3	107,822	-4,870	-4.32
 Total Population:	 5,296,486			

Constitutional Amendments

In addition to the introduction of a legislative districting plan by the Governor at the beginning of the 2002 session, several bills were introduced aiming to modify the constitutional provisions governing the State legislative redistricting process. *Senate Bill 531 (failed)* would have amended the State constitution to require a 17-member Legislative Districting and Apportionment Commission to be responsible for creating legislative and congressional districts within 180 days of convening. The bill would have tightened the allowable overall deviation (the difference between the largest and smallest districts in the State plan) to no more than 1 percent, down from the current court-established benchmark of 10 percent, and provided for automatic judicial review of completed plans by the Maryland Court of Appeals within 15 days of finalizing the plan.

House Bill 688 (failed) would have amended the constitution to exempt Senators and Delegates from the residency requirements of the State Legislative Districting Plan for the period between the adoption of the plan to the date of the first election following adoption, if an incumbent’s previous district had been altered by the plan. Currently, the State constitution requires a representative to have resided in the district they have chosen to represent for at least six months prior to the date of their election.

Alternative Plans

Three alternative legislative redistricting plans were offered before the constitutional deadline of February 22. *Senate Joint Resolution 12 (failed)* would have subdivided each state senatorial district into three single-member delegate districts creating 141 delegate districts in total. *Senate Joint Resolution 19 (failed)* would have retained two Baltimore area districts lost to the Washington metropolitan region under the plan introduced by the Governor, and *House Joint Resolution 27 (failed)* would have made relatively minor changes in the Montgomery county area.

Congressional Redistricting

According to the 2000 census Maryland’s population was 5,296,486, entitling it to eight seats in the U.S. House of Representatives (**Exhibit C.2**). The 2000 ideal district population is 662,061. Population growth and shifts since 1992 caused the existing congressional districts to fall out of compliance with federal one person-one vote requirements.

Exhibit C.2
1992 Congressional District Population 2002
 (Ideal District Population = 662,061)

<u>District</u>	<u>Population</u>	<u>Deviation</u>	<u>% Deviation</u>
District 1	682,770	20,709	3.13%

<u>District</u>	<u>Population</u>	<u>Deviation</u>	<u>% Deviation</u>
District 2	652,938	-9,123	-1.38%
District 3	643,935	-18,126	-2.74%
District 4	648,764	-13,297	-2.01%
District 5	714,886	52,825	7.98%
District 6	723,196	61,135	9.23%
District 7	539,439	-122,622	-18.52%
District 8	690,558	28,497	4.30%

The General Assembly reconfigured Maryland's eight congressional districts during the regular session of 2002. *Senate Bill 805 (passed)* is based on the recommendations made by the Governor's Redistricting Advisory Committee.

Senate Bill 805 creates a congressional districting plan with a total variance of two persons or three ten-thousandths of a percent (0.0003 percent). The plan maintains two minority districts (the 4th and 7th Congressional districts) and to the extent possible, preserves the cores of the 1992 districts. **Exhibit C.3** provides the district populations, variances, and racial percentages for each congressional district.

Exhibit C.3
2002 Congressional Districting Plan (2002 Population)

<u>District</u>	<u>Population</u>	<u>Deviation</u>	<u>% White</u>	<u>% Black</u>	<u>% Hispanic</u>
1st	662,062	1	85.54%	11.25%	1.57%
2nd	662,060	-1	67.31%	27.29%	2.18%
3rd	662,062	1	77.26%	16.33%	2.90%
4th	662,062	1	30.31%	57.26%	7.52%
5th	662,060	-1	61.97%	30.29%	3.46%
6th	662,060	-1	92.33%	4.87%	1.44%
7th	662,060	-1	34.94%	59.12%	1.67%
8th	662,060	-1	62.56%	16.74%	13.69%
Total Population:	5,296,486				
Ideal District Population:	662,061				

Ethics

Lobbyist Ethics

The focus of attention in public ethics was the portion of the Maryland Public Ethics Law that relates to the registration and regulation of lobbyists. With only one exception, every legislative proposal sought to modify the provisions of the 2001 session's omnibus lobbyist ethics bill (Chapter 631 of 2001).

The 2001 enactment had codified the recommendations of the Study Commission on Lobbyist Ethics (the "Robertson Commission") and had expanded the lobbyist law in a variety of areas for persons seeking to influence Legislative Branch or Executive Branch actions. Concerns were raised almost immediately that some of the new provisions went beyond what the legislature had intended. Moreover, the substantially increased penalties of the new law for improperly failing to register as a lobbyist brought greater attention to compliance with registration criteria that had been in the law for over 20 years.

The only bill in this subject area that passed, *House Bill 1076 (passed)*, alters several provisions that were enacted in 2001, as well as changing provisions that have been in effect since the 1970s. The significant changes are as follows:

Thresholds for Lobbyist Registration

Much of the public's concern about the lobbyist law grew out of the State Ethics Commission's interpretation of long-standing "thresholds" that determined if and when a person's activities required registration as a regulated lobbyist. Under the current law, a person who interacts face-to-face with legislators or legislative staff, for the purpose of influencing legislative action, must register as a lobbyist if the person either incurs expenses of at least \$100 or earns \$500 as compensation.

As interpreted by the Ethics Commission, those provisions were applied to individuals who testified in Annapolis on a very limited basis or who were not being specifically compensated for the lobbying. For example, the time that a member of a professional or trade association spent in Annapolis was counted toward the compensation threshold even if the individual was using vacation or leave time. In order to accommodate these situations, while not creating a loophole for professional lobbying efforts, *House Bill 1076* raises the expense threshold to \$500 and the compensation threshold to \$2,500. The increased thresholds will serve to exclude the limited activities that many observers thought should not require registration, while requiring registration for those whose actions are more concerted.

The bill also adds language to the thresholds to more closely tie the expense and compensation payments to the lobbying activity. This will exclude from registration an individual who volunteers to testify on behalf of a nonprofit organization and whose “compensation” is from a job unrelated to the organization or the legislation.

A statement of legislative intent in the preamble to the bill states specifically that the General Assembly did not intend to require registration of lawyers providing pro bono assistance to the Bar Association.

Business Relocation Consultants

The 2001 enactment had required registration by a person who is “compensated by a business entity to influence executive action to secure from the State a business grant or loan with a value of more than \$100,000 for the business entity.” The Department of Business and Economic Development expressed concern that this provision was harming the State’s economic development, because it would require business relocation consultants to register and state the identity of their clients. DBED testified that these consultants typically begin their search for relocation sites by negotiating with State officials prior to revealing the client’s identity. Maryland is the only state to require this group to register as lobbyists. *House Bill 1076* exempts from registration “a person who seeks to secure a business grant or loan for the purpose of locating, relocating, or expanding a business in or into the State,” so long as the person engages in no other act that requires lobbyist registration.

Student Activities

Students are becoming increasingly involved with the legislative process, frequently coming to Annapolis to testify and sometimes to initiate legislation. Because the expenses of this activity may cross the lobbying expenditure threshold, *House Bill 1076* contains an exception from lobbyist registration for an elementary, secondary, or postsecondary school student or student organization that lobbies as part of a course or student activity.

Lobbyists Serving on State Boards or Commissions

The provisions enacted in 2001 included a prohibition on a regulated lobbyist serving on a State board or commission, other than “an advisory body of limited duration.” Because some lobbyists serve on boards or commissions that are unrelated to the financial interests of their lobbying clients, *House Bill 1076* includes a process under which the State Ethics Commission will establish criteria under which regulated lobbyists may serve in these bodies. For a regulated lobbyist serving on an authorized board or commission, there will be financial disclosure requirements that go beyond the requirements for other members of the board or commission. The State Ethics

Commission is to adopt regulations to implement these provisions by October 31, 2002, and will be prohibited from enforcing the restrictions until November 1, 2002.

Miscellaneous Provisions

- ***House Bill 1076*** modifies the prohibition against a lobbyist counseling a person to violate any provision of law, specifying that the violation occurs “knowingly.”
- The bill harmonizes a provision of the Election Law relating to reports from entities that do business with the State with a comparable provision of the Ethics Law requiring reports from entities that compensate lobbyists (the Ethics Law provision having been enacted in the 2001 lobbyist ethics bill).
- An entity that compensates one or more lobbyists is itself deemed a regulated lobbyist if the compensation exceeds \$500. The bill raises this amount to \$2,500 to correspond to the lobbyist compensation threshold described above.

State Ethics Commission – Electronic Reporting

The Ethics Law was amended in 1999 to allow electronic filing of financial disclosure statements and lobbyist reports. In order to implement an electronic filing procedure, ***House Bill 1355 (passed)*** provides for the filing of the required oath or affirmation by attaching or including in the report a signed statement made expressly under the penalties for perjury.

Procurement

Nonpublic Schools

Several measures passed which allow private schools meeting certain criteria to piggyback on State contracts and contracts entered into by cooperative purchasing groups (sometimes referred to as school buying consortia) to lower their costs for supplies and equipment.

Senate Bill 480/House Bill 492 (both passed) allow local boards of education and private schools to participate in contracts for goods that are awarded by other public agencies or by intergovernmental purchasing organizations as long as the lead agency for the contract follows public bidding procedures. In addition, the bills expand the way bids for contracts may be advertised by allowing local boards to advertise bids in a newspaper of general circulation in the region, in the *Maryland Contract Weekly* or a comparable State publication, or on both an electronic bid board and a school system bid board. The Maryland State Department of Education must establish a process, which may include a web site, that provides access to information about contracts for goods held by public agencies or intergovernmental purchasing organizations.

A similar bill, *House Bill 779 (passed)* authorizes nonprofit private elementary or secondary schools that are certified by the State Board of Education or the Association of Independent Schools to use the services of the Purchasing Bureau of the Department of General Services to purchase materials, supplies, and equipment. The bill expressly prohibits the purchase of any religious materials on behalf of the private schools.

Prevailing Wage

A 2001 Court of Appeals decision, *Maryland Division of Labor and Industry v. Triangle General Contractors, Inc.*, held that the prevailing wage law, as recodified by Chapter 48 of 1988, provides that only a subcontractor can be held liable for restitution for underpayment to the subcontractor's employees. Even though the revisor's notes indicate an intention to make no substantive changes to the law, the court found that the recodified language makes a new distinction between the obligation of the contractor to pay liquidated damages to the public body and the obligation of the contractor **or subcontractor** to make restitution to the employee. The court interpreted the latter requirement as hinging on whose employee was underpaid.

Senate Bill 281 (passed) reestablishes that a general contractor is liable for restitution for underpayment to any employee working on a public work contract covered by the prevailing wage law, including a subcontractor's employee. It also provides joint and several liability for the contractor and subcontractor to pay restitution to a subcontractor's underpaid employee. The contractor's liability for liquidated damages to the public body remains the same.

New Procurement Methods

Under current procurement regulations, unsolicited proposals are eligible for award provided that a sole source justification can be provided. *Senate Bill 719 /House Bill 252 (both passed)* authorize the award of a procurement contract on the basis of an unsolicited proposal for specified service contracts even if the unsolicited proposal does not meet the requirements established for a sole source procurement. The unsolicited proposal must involve the delivery of business and economic development services, or educational, health, or social services and must meet other criteria, including offering a novel or innovative concept. The bills create an interagency panel that must review and concur in the award of a contract on the basis of an unsolicited proposal.

Over the last two years, the Department of General Services has implemented several electronic procurement methods including the eMaryland Marketplace. *Senate Bill 86 (passed)* authorizes a primary procurement unit to use auction bids, generally conducted on-line, in the procurement of supplies if the estimated contract value of the procurement is \$1,000,000 or more. The process is commonly referred to as a "reverse

auction” and requires bidders to compete against each other to offer the lowest price for specified goods.

Adjustments to Procurement Authority

House Bill 95 (passed) expands the procurement authority of the Department of Transportation and the Maryland Transportation Authority to include procurement of supplies and services for aeronautics related activities.

House Bill 97 (passed) raises the dollar amount threshold from \$100,000 to \$200,000 that triggers review by the Board of Public Works of an architectural or engineering services contract award by the General Professional Services Selection Board or the Transportation Professional Services Selection Board. The \$200,000 threshold also triggers competitive procurement and certification requirements.

House Bill 572 (passed) authorizes the Board of Trustees of the Community College of Baltimore County to award specified procurement contracts under \$100,000 in dollar value on the basis of noncompetitive negotiation.

Minority Business Preferences – Nonminority Males

House Bill 1150 (failed) would have broadened the applicability of the minority business enterprise preference by modifying the definition of “socially disadvantaged individual” to include an individual, including a nonminority male, who has suffered social disadvantage due to long-term residence in an environment isolated from the mainstream of American society or due to any cause not common to members of the general public.

Regulations and Procedures

Public Records

The General Assembly considered several proposals regarding public records, including proposals relating to access to records and permissible denial of access.

Access to Public Records

House Bill 1024 (passed) provides greater clarity in the State law concerning public access to governmental records. The bill requires a custodian of public records to consider whether to designate specific types of records that will be made available immediately on request, without a written application, and whether to maintain lists of those designated record types. *House Bill 1024* requires a custodian to grant or deny requested access to a public record within 30 days or notify the applicant that the record does not exist. A custodian may not condition the grant of access based on the identity or affiliation of the applicant or the purpose of the application, unless:

- the applicant is requesting a fee waiver or information that is material to the determination of whether the applicant is entitled to a fee waiver; or
- the request is related to the status of an applicant as a person in interest or as required by other law.

House Bill 1024 also establishes a “clear and convincing” evidence standard for damages available for the willful and knowing unlawful disclosure of information in public records or failure to disclose information lawfully sought from public records. Finally, the bill removes the availability of punitive damages for willful and knowing unlawful disclosure, or failure to disclose, lawfully requested information from public records.

Permissible Denials

Although information in public records is generally available to the public, the General Assembly has provided several categories of records to which access may be restricted or denied. The General Assembly added two types of records to those categories in the 2002 legislative session: public security documents and information on the competitiveness of Maryland Port Administration facilities.

Public Security Documents: Recent events have heightened concern for security, including the availability of sensitive information in public records that may compromise the safety of public health and facilities. *Senate Bill 240 (Ch. 3)/House Bill 297 (passed)* allow a custodian of public records to deny inspection of several categories of records relating to emergency response, infrastructure materials, public facilities, and medical and laboratory facilities. The custodian may deny access to these records only to the extent that disclosure of the information would jeopardize the security of any structure owned or operated by the State or one of its political subdivisions, facilitate the planning of a terrorist attack, or endanger the life or physical safety of an individual. For further discussion of this issue, see the subpart “Anti-Terrorism” within this Part C.

Port Administration Rates and Services: Competition for overseas shipping is intense among the ports along the Atlantic Coast of North America. To protect information that might otherwise benefit competitor ports, *House Bill 254 (passed)* allows a custodian of public records to deny access to information on stevedoring or terminal services or facility use rates generated, received, or negotiated by the Maryland Port Administration or by a private operating company created by the Administration. A custodian may also deny access to proposals to use those services to increase waterborne State commerce and deny access to research and analyses related to maritime businesses or vessels that are compiled to evaluate competitiveness.

Electronic Government

As part of the State's movement to centralize information and to make its operations and documents accessible to citizens in electronic form, *Senate Bill 108 (passed)* requires the State Roads Commission and the State Highway Administration to file plats showing their property and rights-of-way with the State Archives rather than with clerks of court. The State Archives must receive, index, and file the microfilm cards or electronic images of plats provided by the commissions, and must post images of the plats on the Archives website, <http://www.plats.net>. Each image must contain a certification by the State Archivist, or a link to such a certification, that the image is an authentic representation of the image received by the Archives. The certification serves as recordation of the plat.

In the area of public safety, the new State Commission on Public Safety Technology and Critical Infrastructure created by *House Bill 1265 (passed)* is charged with ensuring that public safety communication and information management systems are compatible and interoperable. The commission must: (1) recommend standards on compatibility and interoperability to the Chief Judge of the Court of Appeals for systems maintained by the Judicial Branch; (2) adopt regulations on compatibility and interoperability of State public safety units, including standards for accessibility by other appropriate public safety units; (3) recommend standards for county and municipal public safety units; and (4) recommend legislation concerning compatibility and interoperability standards for county and municipal public safety units. For a more detailed discussion of *House Bill 1265*, see the subpart "State Agencies, Offices, and Officials" within this Part C.

Administrative Procedure Act

The referral of contested cases between regulating agencies and the public to administrative law judges is intended as a means of saving time and resources in resolving administrative disputes, compared with bringing these disputes to the courts. Some disputes are resolved by the administrative law judge. In other cases, the administrative law judge makes a recommendation to a final decision maker, usually an administrator or a commission. In order to ensure that contested cases are resolved in an expeditious manner, *Senate Bill 31 (passed)* requires the final decision maker to make a final decision within 90 days after the later of filing exceptions and presentation of arguments, unless otherwise provided by law or agreed by the parties.

Personnel

Employee Compensation

Personnel expenditures, which cost an estimated \$5.3 billion, constitute a major component of the fiscal 2003 budget. This figure represents an increase over fiscal 2002 working appropriations of approximately \$187.3 million, or 3.7 percent. The largest share of this increase is devoted to regular employee salaries which grow modestly in fiscal 2003, primarily through the annualization of the fiscal 2002 general salary increase (approximately \$75 million) and the cost associated with the payment of a lump-sum bonus (approximately \$44 million). Regular employee salaries grow by a total of \$121 million, or 3.1 percent over fiscal 2002.

Under the requirements of Section 37 of the Fiscal 2003 Budget, a 75,600 full-time equivalent (FTE) regular position cap is applied to the Executive Branch. This position cap requires substantial position reductions, which carries with it a minimum required budgetary reduction of at least \$11.0 million in general funds. Individual agency budgets reflect reductions of 614.8 FTEs from those assumed in the Governor's budget (including reductions of 102.0 FTEs from the Judiciary) but require the abolition of an additional 3,401 FTE positions to reach the cap requirement.

In addition to the personnel actions related to employees' salaries, changes to the way the State calculates pension contributions resulted in a \$48.9 million decrease in pension contributions from those assumed in the Governor's allowance in fiscal 2003. A more detailed description of the change in calculating pension contributions can be found under the subpart "Pensions and Retirement" within this Part C. A reduction in the State's match of the deferred compensation benefit from \$600 to \$500 resulted in a savings of \$3.6 million. Deletion of funds for the pay-for-performance bonus benefit further reduced the operating budget by \$8.8 million. These decreases are partially offset by inflationary increases in health, dental, and mental health insurance, which are projected to increase approximately 10 percent or \$53.7 million in fiscal 2003.

For a more detailed discussion of personnel budget actions, see Part A - Budget and State Aid of this *90 Day Report*.

Disciplinary Actions and Grievances

Senate Bill 30 (passed) requires that a disciplinary action be expunged from an employee's personnel records within 15 days of a decision to rescind the disciplinary action. For disciplinary actions rescinded pursuant to a written opinion from either the Office of Administrative Hearings or a peer review panel, the action must be expunged from the employee's personnel records within 45 days of the issuance of a final decision.

Two bills require certain employees at the University System of Maryland and Morgan State University to choose where to file certain grievances. *Senate Bill 89 (passed)* requires employees of the institutions previously eligible to file a grievance for allegations of employment discrimination under both the Equal Employment Opportunity Program or the respective Education Articles, to choose where to file the grievance. Similarly, *Senate Bill 95 (passed)* requires employees of the institutions previously eligible to file a grievance under both the Maryland Whistleblower Law with the Secretary of Budget and Management and the respective Education Articles, to choose where to file the grievance.

Leave and Benefits

Two bills expand participation in the State Employee and Retiree Health and Welfare Benefits Program. *Senate Bill 844 (passed)* allows the Legal Aid Bureau to participate in the plan as a qualified not-for-profit organization for two years. The Legal Aid Bureau must pay a premium determined by the Department of Budget and Management to cover any costs associated with adding the organization to the plan. *House Bill 181 (passed)* permits employees of the following local councils to participate in the plan with the approval of the council:

- the Tri-County Council for Southern Maryland;
- the Tri-County Council for Western Maryland;
- the Tri-County Council for the Lower Eastern Shore of Maryland; and
- the Mid-Shore Regional Council.

Each council must pay the State the full cost associated with the participation of its employees in the plan and must determine the extent to which it will subsidize the health benefits of its employees.

House Bill 1444 (passed) provides some financial relief to State employees who are called to active military duty in the wake of the events of September 11, 2001. The bill authorizes the Secretary of Budget and Management to provide, by regulation, up to 15 days of leave with pay for employees on active military duty or military training in a reserve unit or in the organized militia (National Guard). The bill also permits employees called to active military duty on or after September 11, 2001, that are on unpaid leave, to receive leave from the State Employees Leave Bank. An employee on active military duty and unpaid leave, may receive leave from the bank beginning January 1, 2001, or the date the employee began unpaid leave, whichever is later. The bill is effective until December 31, 2003.

House Bill 1205 (passed) permits uniformed State employees to attach, subject

to certain guidelines, a symbol of the U.S. flag to the employee's uniform. State agencies with uniformed employees must establish the guidelines, which may include the size, location, and form of the symbol that may be worn.

Pensions and Retirement

New Actuarial Methodology

Overview

Under the proposal incorporated in the Budget Reconciliation and Financing Act (BRFA), *Senate Bill 323 (passed)*, the State's actuarial methodology is changed from one in which the State's pension contribution rates vary from year to year to one in which the rates for the largest systems, the employees' and teachers' systems, remain fixed as long as their funding levels remain sound. The respective pension contribution rates for the employees' and teachers' systems are fixed from year to year, as long as the funding for those systems remain in a "corridor" of actuarial funding from 90 percent to 110 percent. Currently, the employees' systems are 102.2 percent funded, and the teachers' systems are 93.5 percent funded.

Under *Senate Bill 323*, each system has a separate fixed contribution rate equal to the fiscal 2002 certified rate. Each rate remains in place as long as funding remains within the 90 percent to 110 percent corridor. Both systems are large enough to remain relatively stable within the corridors, but if either system slips outside the corridor, the rate will be reset to bring it back toward full funding. This will be done through an adjustment equal to one-fifth of the distance to the full funding rate. Any benefit enhancements or other changes to either plan will require adjustments to the fixed rate.

Other Plans

The three smaller plans, the State Police Retirement System, the Judges' Retirement System, and the Law Enforcement Officers' Pension System (LEOPS), and the "municipal pool" of participating local units, will continue under the current methodology, whereby the contribution rate is reset by the Board of Trustees for the State Retirement and Pension System (the pension board) and the actuary each year. The decision to exclude the smaller systems reflected concerns by the actuary and the pension board about the relative funding levels of these systems (the State Police Retirement System is 131 percent funded, while LEOPS is 57 percent funded). These smaller systems are more volatile and would be harder to keep within corridors.

Budget Impact

The BRFA “corridor” approach achieves pension savings this year under an actuarially sound methodology. It also provides rate stability in fiscal 2004 and beyond. The corridor approach will produce approximately \$49 million in savings (\$38 million in general funds) versus current statutory methodology, or \$30 million more than the proposal that the Governor included in *Senate Bill 323* as introduced and in the Fiscal 2003 Budget. Additionally, this “corridor” approach spreads the pension savings evenly among participating agencies in the employees’ and teachers’ systems, resulting in an increase in funding to teacher retirement aid versus the Governor’s proposal.

The Fiscal 2003 Budget, as introduced by the Governor, included \$65 million in general fund reductions to the State’s pension contributions versus the statutorily required amounts. The total underfunding, including all fund types, was approximately \$79 million. In addition, the Governor’s allocation of the \$79 million underfunding fell disproportionately on the State’s contribution to local teacher retirement.

Through the Governor’s approach, State pension contributions would have bounced back up by \$79 million in fiscal 2004, with an additional increase to reflect the amortized portion of the fiscal 2003 underfunding. With poor pension investment performance likely this year, it is possible that the State’s contributions for fiscal 2004 would be even higher than that. In that context, the Department of Legislative Services sought the assistance of Milliman USA, the pension actuary for the State, to develop a new pension contribution methodology that was actuarially sound but also would reflect the State’s fiscal ability to make pension contributions in fiscal 2003 and 2004.

Future Outlook

In the long term, the corridor approach creates greater stability and predictability in budgeting. So long as the employees’ and teachers’ systems stay within their corridors, pension contributions will increase only as a factor of payroll growth. Under the current methodology, a year or two of poor pension investment performance causes the contribution rate to spike up simultaneous with a decline in tax revenues. The corridor stability insulates the State from a shock of this sort. Moreover, under favorable circumstances, the contribution rate will stay high, whereas under the current method it would drop down, reducing State pension contributions.

For a further discussion of BRFA, see Part A - Budget and State Aid of the *90 Day Report*.

Joint Committee on Pensions Legislation

Each year the Joint Committee on Pensions introduces legislation at the request of the pension board and on its own initiative. In the 2002 session, each of the six bills that were introduced by the joint committee passed.

Change in Fee Cap for Management of Alternative Investments

House Bill 163 (passed) increases the limits for fees that the pension board may pay for the external management of alternative investments. The bill also allows the pension board to carry over from one quarter to the next any previously estimated but unspent fees under the fee limit cap for alternative investments or real estate investments. *House Bill 163* applies retroactively to unspent fees under the cap for the eight quarters before the effective date, July 1, 2002.

Task Force to Study Health Insurance Liabilities

House Bill 164 (passed) creates a six-member Task Force to Study the State's Retiree Health Insurance Liabilities. The task force is required to: (1) review other states' approaches to retiree health care; (2) commission an actuarial valuation of the liabilities associated with the retiree health system; and (3) develop options and recommendations to address the issue of retiree health care for the 2003 session.

House Bill 164 was the culmination of a comprehensive summer study conducted during the 2000 interim by the Joint Committee on Pensions and the Department of Legislative Services. The findings of the study determined that Maryland, like the majority of states around the country, partially subsidizes the health insurance premiums for retired State employees on a "pay-as-you-go" basis. The State's actuary informally estimates the unfunded liabilities associated with this subsidy at \$3 billion. To address these growing costs and anticipate the time when government accounting standards may require recognition of these liabilities, a growing minority of states have begun to prefund these liabilities.

Board of Supervisors of Elections

House Bill 165 (passed) codifies an existing practice by allowing for the payment of employer and employee contributions made by local boards of supervisors of elections to be made either through the Central Payroll Bureau or directly to the pension board.

Recalculation of Annuity Payments Under Options 5 and 6

House Bill 394 (passed) adds a feature to two existing annuity options available to retirees of the State retirement and pension systems. The bill permits retired members

and future retirees who have elected, or will elect, one of the two “pop-up” options (Options 5 or 6) at retirement to designate a new beneficiary at any time after the benefit has increased to the basic allowance following the death of the originally designated beneficiary.

Reemployment of Disability Retirees – Suspension of Allowance

House Bill 395 (passed) eases restrictions on disability retirees who wish to return to work. The bill grants to the pension board the discretion to temporarily suspend the disability retirement allowance of a disability retiree who: (1) is under the normal retirement age; (2) began receiving a retirement allowance on or after July 1, 1998; and (3) is reemployed in any position by a participating employer, if the salary received by the retiree is at least equal to the retiree’s average final compensation at retirement. The suspension is effective only during the period of reemployment.

House Bill 395 also repeals the provisions that allow the board to suspend a retiree’s allowance if: (1) the retiree becomes reemployed by a participating employer at a salary less than the retiree’s average final compensation at retirement but in a position similar to the position held at retirement; or (2) the board determines that a retiree has refused to accept a reemployment offer by the retiree’s employer at the time of retirement in a position similar to the one held by the retiree at retirement or a position with a salary that is at least equal to the retiree’s average final compensation at retirement. Additionally, the requirement that a disability retiree be subject to a reexamination process is also eliminated.

Federal Tax Issues

House Bill 534 (passed) makes several changes in State law to incorporate changes in federal tax law resulting from the passage of the federal Economic Growth and Tax Relief Reconciliation Act of 2001. These changes include: (1) removing any specific maximum dollar limit for annual compensation that would be used to determine the retirement allowance payable to a member of a State retirement or pension system, and instead referencing the section in the Internal Revenue Code (IRC) that addresses the current applicable dollar limitations; (2) allowing direct rollovers of payments to be made to IRC § 403(b) annuities and certain types of IRC § 457 plan accounts; (3) allowing after-tax employee money to be included in rollover distributions; and (4) allowing a member of a State retirement or pension system to purchase prior service with money from any fund source that is not specifically prohibited by the IRC.

Collective Bargaining Bills

Six pension bills were introduced during the 2002 session that were the result of collective bargaining negotiations. Of these six bills, only one passed.

House Bill 1442 (passed) increases the special death benefit paid to surviving beneficiaries of a member of the LEOPS or the State Police Retirement System whose death arises out of or in the course of the actual performance of duty to two-thirds of the member's average final compensation.

The other five collective bargaining bills failed. **House Bill 1443 (failed)** would have excluded certain LEOPS and State Police Retirement System disability retirees from the current employment restrictions and earnings limitations placed on disability retirees of these systems. **House Bill 1445 (failed)** would have allowed certain members of the State Police Retirement System to purchase service credit for periods of employment with political subdivisions of the State. **House Bill 1446 (failed)** would have enhanced retirement benefits and changed the terms of the Deferred Retirement Option Program (DROP) of the State Police Retirement System. **House Bill 1447 (failed)** would have created a DROP program for members of the Employees' Pension System and the Employees' Retirement System. Finally, **House Bill 1453 (failed)** would have created a DROP program for members of the Correctional Officers' Retirement System.

Pensions for Governors and Judges

During the 2001 interim, both the Governor's Salary Commission and the Judicial Compensation Commission convened. At the conclusion of each of their studies, both commissions recommended changes to pension benefits.

Senate Bill 202/House Bill 258 (both passed) increase the pension benefit of a Governor who has served one full term in office to equal one-third of the annual salary received by the current Governor. For a Governor who has served two full terms, the benefit increases to one-half of the annual salary received by the current Governor. Under existing law former Governors receive a benefit based on the salary received as Governor, subject to a 3 percent cost-of-living adjustment.

These bills also eliminate a specific pension provision that provided a \$12,500 allowance for former Governors who served at least one full term of office before January 17, 1979. Deletion of this provision allows at least one former Governor to receive an increased pension based on the new formula.

Senate Bill 204/House Bill 259 (both failed) would have made technical changes to the Governor's pension formula, contingent on the failure of **Senate Bill 202/House Bill 258**.

Senate Bill 171/House Bill 173 (both passed) allow a retiree of the Judges' Retirement System who has no spouse or minor children at the time of retirement and who elects to receive a reduced allowance, to designate multiple beneficiaries to receive

a lump-sum payment of any remaining pension balance at the time of the retiree's death. In addition, these bills create a lump-sum death benefit that is payable to the member's designated beneficiary or beneficiaries if the member dies prior to retirement and has no surviving spouse or minor children at the time of death. These provisions are similar to those recently added to the Legislative Pension Plan.

Membership and Benefits

A number of bills were introduced that affect the membership and benefits of several of the State retirement and pension systems.

Employees' and Teachers' Systems

Senate Bill 337/House Bill 749 (both passed) allow active members of the Employees' Pension System (EPS) or the Teachers' Pension System (TPS) to combine their years of service with that system with any years of service they have from the Employees' Retirement System or Teachers' Retirement System, if the member has a combined total of at least 30 years of service credit. The service is combined solely for the purpose of service retirement eligibility; benefit calculations are still based on each component of the service and the applicable benefit formula, with the applicable average final compensation for each component.

House Bill 1255 (passed) provides that an individual who purchased up to four years of service credit at full cost based on an incorrect estimate by the pension board may receive a refund of the amount paid for the service credit plus 4 percent interest, reduced for prior overpayments of benefits. This bill applies to retirees who purchased service credit prior to July 1, 1999, and retired on July 1, 1999. The bill terminates December 31, 2002.

Senate Bill 868/House Bill 1287 (both passed) provide local governmental units that participate in EPS with an additional window of opportunity to transfer their employees from the pre-1998 EPS to the enhanced, contributory EPS. This window extends from July 1, 2002, to December 31, 2002.

Senate Bill 686/House Bill 705 (both passed) permit a public institution of higher education to establish supplemental retirement plans that provide supplemental retirement accounts offered by a designated company in accordance with § 401(a), § 403(b), or § 457 of the IRC, or any other provision of federal law that authorizes supplemental retirement accounts. The bill applies retroactively to supplemental accounts authorized and supplemental annuity contributions made after December 31, 2001.

Senate Bill 105 (passed) allows nonfaculty employees of Baltimore City Community College (BCCC) who are members of TPS to transfer membership to EPS on or before December 31, 2002. Future nonfaculty BCCC employees would be automatically enrolled in EPS. Once enrolled in EPS, these employees would become eligible for the State's employer match to deferred compensation programs.

State Police Retirement System

Senate Bill 477/House Bill 369 (passed) exempt retirees of the State Police Retirement System from the prohibition against members of the system accepting a retirement or pension allowance from another retirement or pension or system supported wholly or in part by the State, if the retiree is serving as a sheriff or State's Attorney for a county that participates in a State system. The bills apply retroactively to retirees serving in these offices on or after January 4, 1999, and still serving on July 1, 2002.

House Bill 1403 (passed) waives the existing one-year statute of limitations for transferring service credit if a member of the State Police Retirement System made a claim to transfer the service credit within one year but the claim was not processed, and the member resubmits a completed claim application. The bill applies retroactively to individuals who became State Police Retirement System members on or after January 1, 2000, and terminates on June 30, 2003.

Law Enforcement Officers' Pension System

Senate Bill 309/House Bill 216 (both passed) give State employees who were previously eligible for LEOPS membership but elected not to transfer an additional transfer opportunity through December 31, 2002.

Senate Bill 569 (passed) includes police officers employed by the Division of Rehabilitation Services in the State Department of Education in LEOPS.

Miscellaneous Bills

Senate Bill 497 (passed) allows members of a State retirement or pension system to receive military service credit for service with the Maryland National Guard when they are called to active duty on the same basis that they would receive such credit for inactive duty under current law.

House Bill 1289 (passed) authorizes the County Commissioners of Cecil County to establish and maintain an independent retirement system for officers and employees of Cecil County. Cecil County currently participates in the State system.

Bills for Interim Study

House Bill 116, House Bill 1354, and House Bill 1413 (all failed) were referred by the House Appropriations Committee to the Joint Committee on Pensions for interim study. *House Bill 116* would have included agents of the Division of Parole and Probation of the Department of Public Safety and Correctional Services in LEOPS. *House Bill 1354* would have prohibited the pension board from investing pension system assets in foreign currency or similar investment transactions involving foreign currency, forward contracts, options, or futures. In addition, the pension board would have had to divest by December 31, 2002, any such investments that are currently included in the portfolio for the pension system. *House Bill 1413* would have imposed several investment disclosure and governance requirements on the pension board.

General Assembly

Legislative Salaries, Expenses, and Pensions

The Maryland Constitution sets forth the process for determining legislative salaries, expense reimbursements, and fringe benefits by establishing the General Assembly Compensation Commission (Article III, Section 15). The commission consists of nine members, five of whom are appointed by the Governor, two of whom are appointed by the President of the Senate, and two of whom are appointed by the Speaker of the House of Delegates. Members of the General Assembly and officers and employees of the State and county and local governments are not eligible to serve. The term of office for the members of the commission is four years. They can be removed from office by the Governor for official misconduct, incompetence, or neglect of duty. The members serve without compensation but are reimbursed for expenses. Decisions of the commission must be concurred in by at least five members. Staff support is provided by the Department of Legislative Services.

The State constitution requires the commission to submit compensation recommendations for members of the General Assembly to the legislature by formal resolution within 15 days after the beginning of the last regular legislative session in a four-year term of office. The General Assembly may amend the commission's resolution only to decrease or reject particular items. Legislative action is not required to effectuate the commission's recommendations.

The recommendations contained in the 2002 resolution reflect the commission's commitment to maintaining a part-time "citizen" legislature. The commission also believed that compensation commensurate with part-time legislative service should be set at an overall level that enables individuals to periodically leave their professions or businesses for legislative work and attracts individuals with experience and ability who otherwise might not run for office.

For the next term of office, the 2002 resolution provides for a \$3,000 annual salary increase for the members starting in January 2003. This recommendation increases the 2001/2002 salary of \$31,509 to \$34,500 in 2003, \$37,500 in 2004, \$40,500 in 2005, and \$43,500 in 2006.

The \$10,000 differential for the presiding officers was increased by the resolution to \$13,000 for the 2003-2006 legislative term, thereby raising their salaries from \$41,509 to \$47,500 in 2003, \$50,500 in 2004, \$53,500 in 2005, and \$56,500 in 2006.

In addition, members will be reimbursed for meals in accordance with the standard State travel regulations (anticipated to be \$39 per diem in fiscal 2003) instead of the current \$30 per diem. The other changes to salaries and expense reimbursements are a \$500 in-district travel allowance, up from \$400, and a \$225 daily limit on out-of-state travel for meals and lodging, up from \$175.

The only other change from the previous resolution of the General Assembly Compensation Commission submitted in 1998 involves a minor amendment to the legislative pension plan. Under the 2002 resolution, members and retirees will be able to designate multiple beneficiaries to receive a limited lump-sum benefit. Upon the death of a vested active or former legislator, if there is no surviving spouse and the member has designated multiple beneficiaries, the beneficiaries will share equally a lump sum comprised of one year's salary plus a return of the member's contributions with interest. Upon the death of a retired legislator, if there is no surviving spouse and the retiree has designated multiple beneficiaries, the beneficiaries will share equally a lump sum equal to the balance of the actuarial equivalent present value of the retiree's basic allowance computed at the time of retirement. The amount of the balance, if any, will depend on how long the retiree received a retirement allowance.

There were three proposed joint resolutions, *Senate Joint Resolution 11 (failed)*, *House Joint Resolution 24 (failed)*, and *House Joint Resolution 36 (failed)*, that would have rejected the increases in legislative salaries, but they were unsuccessful.

The resolution submitted by the General Assembly Compensation Commission has taken effect by operation of the provisions of the Maryland Constitution, has the force of law as of the beginning of the term of the next General Assembly, and continues in force until superceded by any succeeding resolution.

Legislative Redistricting

The reconfiguring of the State's 47 legislative districts was the subject of considerable attention both before and during the 2002 session. The Constitution of Maryland (Article III, Section 5) requires the Governor to prepare a legislative districting plan following the decennial census and to present the plan to the presiding officers of

the General Assembly in the form of a joint resolution on the first day of the regular session in the second year following the census. The Constitution further provides that if the General Assembly does not adopt another redistricting plan by the 45th day of the session, the Governor's plan as presented becomes law.

By practice since 1973, there has been an advisory committee appointed by the Governor to formulate proposed changes and adjustments to State legislative districts (and congressional districts as well - see below). The advisory committee that was appointed during the 2001 interim by Governor Glendening consisted of John T. Willis, the Secretary of State, who served as chairman, Thomas V. Mike Miller, Jr., President of the Senate of Maryland, Casper R. Taylor, Jr., Speaker of the House of Delegates, Isiah Leggett, member of the Montgomery County Council, and Louise L. Gulyas, Worcester County Commissioner. The committee set the legal and policy guidelines it used in formulating a redistricting plan and received input from legislators, community organizations, and the general public through a series of public hearings held throughout the State in the summer and fall of 2001. The Department of Planning serves as the official repository of the documents of the Governor's Redistricting Advisory Committee. The Department of Legislative Services provided staff support to the General Assembly for the redistricting, including the drafting of alternative redistricting plans and amendments and the preparation of maps and reports of data.

Senate Joint Resolution 3/House Joint Resolution 3 (both passed) were introduced on January 9, 2002, and became law on February 22, 2002, as the Legislative Districting Plan of 2002. While several alternative State redistricting plans were prepared and introduced as joint resolutions during the session, none passed.

Litigation has been initiated by several members of the General Assembly challenging the constitutionality or legality of certain of the legislative districts as they are configured in *House Joint Resolution 3/Senate Joint Resolution 3*.

For a more detailed discussion of the Legislative Districting Plan of 2002, see the discussion under the subpart "Elections" of this Part C.

Congressional Redistricting

The General Assembly is responsible for passing legislation that redraws the boundaries of the Maryland congressional districts after each decennial census is complete and new population data is available to accurately distribute the population among districts. Both the Maryland Constitution and the statutory law of the State are silent on the matter of congressional redistricting. The U.S. Congress has given state legislatures authority to redistrict congressional seats. The only federal statutory requirement is that congressional districts be single-member districts. The U. S. Supreme Court has consistently ruled that congressional districts must be created with

as nearly equal population as practicable, with strict population equality thus being the rule. The plan to redistrict Maryland's congressional districts takes the form of a regular bill introduced in the General Assembly that must go through the legislative process in both houses. The bill must be signed by the Governor, who has veto power over it. The congressional redistricting plan introduced in 2002, *Senate Bill 805 (passed)*, was also developed by the Governor's Redistricting Advisory Committee and submitted and passed as emergency legislation so as to take effect immediately upon the Governor's signing it into law.

As is the case with the State legislative districting plan that took effect on February 22, 2002, litigation has been filed challenging the Congressional districting plan encompassed in *Senate Bill 805*.

For a more detailed discussion of Congressional redistricting, see the subpart "Elections" of this Part C.

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 the State government. The Department of Legislative Services 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 (hence, "sunset") unless legislation is enacted to reauthorize them. The methodology for conducting the evaluations by the Department of Legislative Services has been refined over the years and involves extensive activities on the part of the department's staff in the evaluation process. More than the termination of agencies, 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 for the purpose of both bringing them to the attention of the agencies and addressing through legislation appropriate issues relating to the structure, performance, and practices of the agencies.

During the 2001 interim, the Department of Legislative Services undertook 13 full evaluations of various regulatory and other boards and commissions and prepared legislation reflecting the recommendations of the evaluations that was introduced on behalf of the department by the presiding officers of the General Assembly.

Program evaluation legislation related to the boards, commissions, and agencies that were the subject of full program evaluation during the 2001 interim was introduced in the 2002 session with the following results:

- State Board of Nursing (*Senate Bill 459/House Bill 461 - both passed*)
- State Board of Examiners of Nursing Home Administrators (*Senate Bill 718 /House Bill 847 - both passed*)
- State Board of Pharmacy (*Senate Bill 418 /House Bill 462 - both passed*)
- State Board of Physician Quality Assurance (*Senate Bill 613/House Bill 846 - both failed*)
- State Board of Physician Quality Assurance - Radiation and Nuclear Medicine Technologists (*Senate Bill 534/House Bill 518 - both passed*)
- State Board of Examiners of Psychologists (*Senate Bill 458/House Bill 463 - both passed*)
- Board of Boiler Rules (*Senate Bill 455 - passed/House Bill 488 - failed*)
- Board of Examining Engineers (*Senate Bill 455 - passed/House Bill 488 - failed*)
- State Board of Master Electricians (*Senate Bill 456/House Bill 487 - both passed*)
- State Board of Pilots (*Senate Bill 457/House Bill 489 - both passed*)
- State Commission of Real Estate Appraisers and Home Inspectors (*Senate Bill 417/House Bill 485 - both passed*)
- State Economic Growth, Resource Protection, and Planning Commission (*House Bill 457 - failed*)
- State Board of Environmental Sanitarians (*Senate Bill 490/House Bill 519 - both passed*)
- Insurance Commissioner and Insurance Administration (*Senate Bill 472 - passed/House Bill 486 - failed*)
- State Board of Morticians (evaluated in 2000 with action postponed until 2002 session) - (*Senate Bill 420/House Bill 465 - both passed*)

The following boards, commissions, offices, and agencies, which were also among those subject to program evaluation during the 2001 interim, were the subject of **preliminary** evaluation by the Department of Legislative Services and, with two

exceptions (the Governor’s Council on Adolescent Pregnancy and the Office for Children, Youth, and Families), were continued through legislation extending their statutory termination dates; **further** evaluations of these entities were waived by the Legislative Policy Committee:

- State Board of Examiners for Audiologists, Hearing Aid Dispensers, and Speech-Language Pathologists (*Senate Bill 126/House Bill 149 - both passed*)
- State Board of Professional Counselors and Therapists (*Senate Bill 126/House Bill 149 - both passed*)
- State Board of Occupational Therapy Practice (*Senate Bill 126 /House Bill 149 - both passed*)
- Physician Assistant Advisory Committee (*Senate Bill 126/House Bill 149 - both passed*)
- State Board of Foresters (*Senate Bill 128/House Bill 156 - both passed*)
- State Board of Public Accountancy (*Senate Bill 124/House Bill 159 - both passed*)
- Governor’s Council on Adolescent Pregnancy (no bill was introduced; will be allowed to “sunset”)
- Office for Children, Youth, and Families (*Senate Bill 131/House Bill 151 - both failed*)
- Office for Individuals with Disabilities (*Senate Bill 130/House Bill 134 - both passed*)
- State Board of Law Examiners (*Senate Bill 127/House Bill 155 - both passed*)
- Licensing and Regulation of Security Systems Technicians (*Senate Bill 125/ House Bill 154 - both passed*)

The following boards, commissions, and agencies were the subject of preliminary evaluations during the 2001 interim and will be the subject of further evaluation by the Department of Legislative Services in the 2002 interim; thus, their termination dates, as has been the practice, were not extended by legislation in the 2002 session:

- State Board of Electrologists
- State Board of Social Work Examiners

- State Amusement Ride Safety Advisory Board
- Apprenticeship and Training Council
- Advisory Council on Prevailing Wage Rates
- Occupational Safety and Health Advisory Board
- Division of Labor and Industry
- State Board of Certified Interior Designers

Constitutional Amendments

Any change to the provisions of the Constitution of Maryland and the Declaration of Rights must first be passed in legislative bill form by both houses of the General Assembly by a three-fifths majority vote (29 ayes in the Senate and 85 ayes in the House of Delegates). However, Constitutional amendments do not require the Governor's signature for approval, and the Governor has no veto power over them. Once passed by the General Assembly, proposed Constitutional amendments are placed on the ballot of the next ensuing general election for approval or rejection by the voters of the State. If the amendment affects one county only, it must receive a majority vote in that county at the general election; if it fails to get a majority in that county, even if it receives a majority vote in the rest of the State, the amendment fails.

During the 2002 session, 16 bills proposing changes to the Maryland Constitution were introduced, but only three passed.

House Bill 6 (passed) will expand the powers and duties of District Court commissioners to allow them to issue civil interim peace orders and civil interim protective orders within the jurisdiction of the District Court when the office of the clerk of the District Court is **not** open. For a more detailed discussion of this bill, see Part F - Courts and Civil Proceedings of this *90 Day Report*.

House Bill 346 (passed) narrows the scope of the provisions of Article III (Legislative Department) with respect to the kinds of bills that may **not** be made subject to an emergency effective date. An emergency effective date allows for a legislative bill that is passed by the General Assembly to take effect immediately on signature by the Governor. The proposed amendment will remove the prohibition on making bills that affect the creation or abolishment of any public office or the term or duties of any public officer subject to an emergency effective date.

House Bill 403 (passed), which relates to eminent domain (the immediate taking of private property for public use), will authorize the Montgomery County Council to appoint a licensed and certified real estate appraiser to estimate the fair market value of real property in the county subject to immediate taking under existing law. Currently, the county council may appoint only a licensed real estate broker to undertake fair market value estimates of private property that will be taken for public use in the county.

Of the other proposed Constitutional amendments that were considered, two garnered considerable attention. The first was **Senate Bill 476 (failed)** that would have authorized the General Assembly to increase or add Executive Department items in the budget bill and would have provided line item veto authority to the Governor over those items. The other was **House Bill 732 (failed)** that would have authorized video lottery terminals (slot machines) at racetracks and other locations and dedicated at least one-half of the proceeds of the gaming authorized by the bill to fund public education needs in the State.

Statutory Revision

The nonsubstantive bulk revision of the Annotated Code of Maryland is a statutorily mandated ongoing process that is undertaken on behalf of the General Assembly by the Department of Legislative Services. During the 2002 session, there were two major statutory revision (“code revision”) bills introduced that were each the product of several years of development.

- Election Law Article: The first major code revision bill is **Senate Bill 1 (passed)** which focuses on the provisions relating to campaign finance law. The bill also incorporates with minimal or no change the provisions that had been previously revised in a substantive manner by 1998 enacted legislation that had been recommended by the Commission to Revise the Election Code.
- Criminal Law Article: The second major code revision bill is **House Bill 11 (Ch. 26)** that creates the Criminal Law Article. With its enactment, there is now a comprehensive nonsubstantive, logically organized recodification and restatement of the substantive crimes of the State that had been codified in Article 27 and elsewhere in the Annotated Code.

Statutory revision activity also included a revision and recodification of the Electric Cooperative Act. **Senate Bill 129/House Bill 153 (both passed)** recodified provisions of law relating to the formation, powers, directors and officers, consolidation, merger, conversion, and dissolution of electric cooperatives that had been decodified and transferred to the Session Laws of Maryland in 1976 as part of the code revision process that produced the Corporations and Associations Article. However, in light of the recent restructuring of the electric utility industry and the likelihood of increased legislative

activity in this area, the General Assembly determined that the laws governing electric cooperatives should be made more accessible. Thus, the recodification (moving the law from the Session Laws to codified statutory law in the Annotated Code) was prepared and passed.

Annual Corrective and Curative Legislation

Because the General Assembly has seen fit to delegate very little editorial control to the publisher of the Annotated Code (Lexis/Nexis - formerly the Michie Company - in Charlottesville, Virginia) with respect to making nonsubstantive and technical changes in the Code that are identified each year by the publisher and other sources, the Department of Legislative Services has long had the statutory authority to prepare legislation on behalf of the legislature to correct nonsubstantive and technical changes both in the statutory text of prior year's enactments and in the titles of those enactments as well.

These corrective measures are called the annual corrective bill *Senate Bill 305 (Ch. 19)* and the annual curative bill *Senate Bill 304 (Ch. 18)*, respectively. Neither enactment contains any substantive change.

Legislative Committees

Over the years, the General Assembly has created a number of specialized statutory joint committees to assist it in its oversight, management, and understanding of a wide variety of issues. During the 2002 session, the legislature considered several proposals that would have created new statutory committees. Of them, *Senate Bill 894 /House Bill 1440 (both failed)* received the most attention and would have created the Joint Oversight Committee on Electric Customer Choice and Competition.

In addition, *Senate Bill 39/House Bill 45 (both passed)*, extend for seven years the termination date of the Joint Committee on Children, Youth, and Families, a statutory committee created in 1999 that was due to terminate on May 31, 2002.

Study Commissions and Task Forces Created by Legislative Initiative

As has been the case in prior sessions, the General Assembly determined that there were a number of issues that warranted a greater degree of focus and study than the time constraints of the 90-day session allowed. The legislature also determined that these issues should be reviewed by groups comprised of appropriate representatives of the public and private sectors and that staff support should be provided in whole or in part by the Department of Legislative Services. To initiate the studies that were identified, appropriate legislation was introduced and passed by the General Assembly.

Of the new study groups created, foremost attention was given to the Commission on Maryland's Fiscal Structure - *House Bill 1 (passed)*. The commission is to consist of 17 members, with legislative representation consisting of four members of the Senate Budget and Taxation Committee, two members of the House Appropriations Committee, and two members of the House Ways and Means Committee. Other members will include the State Comptroller and one representative each from the Maryland Association of Counties, the Maryland Municipal League, the Maryland Chamber of Commerce, and the Maryland Association of Nonprofit Organizations. Three members of the public will also be appointed to serve. The commission is to submit an interim report of its preliminary findings to the Governor and General Assembly by December 31, 2002, and a final report by September 1, 2003.

The charge to the commission is to review and evaluate the State's current budget and fiscal structure and make recommendations for: (1) changes to the State budget process; (2) ensuring that the State will have a progressive tax structure; (3) methods to address funding sources for the education, transportation, and health care needs of the State; and (4) addressing inefficiencies in and making improvements to State government services and operations.

Other study commissions or studies created at the initiative of the General Assembly with staffing to be provided by the Department of Legislative Services are:

- Task Force to Study the State's Retiree Health Insurance Liabilities - *House Bill 164 (passed)*;
- Study Commission on Public Funding of Campaigns in Maryland - *Senate Bill 471/House Bill 538 (both passed)*;
- Task Force to Study the Economic Development of the Maryland Seafood and Aquaculture Industries - *House Bill 662 (passed)*;
- Task Force to Study Moving Overhead Utility Lines Underground - *Senate Bill 653/House Bill 1089 (both passed)*;
- Task Force on Resource Industry Business Development - *Senate Bill 735/House Bill 849 (both passed)*.
- Task Force to Study Public School Facilities - *House Bill 937 (passed)*.