

Part H

Business and Economic Issues

Legislation Related to Program Evaluation

During the 2002 interim, several labor, industry, and business occupation laws underwent evaluation as part of the third cycle of an evaluation process commonly referred to as sunset review. Typically, the laws, programs, boards, and commissions subject to evaluation require positive legislative action to extend the sunset (or termination) date for the board or commission.

Labor and Industry

Senate Bill 303/House Bill 651 (both passed) implement most of the recommendations from the sunset review of the Division of Labor and Industry, four associated boards and councils, and related laws by altering several portions of the Labor and Employment Article, Business Regulation Article, Health – General Article, State Finance and Procurement, and State Government Article and Article 48 – Inspection and Article 89 – Miscellaneous Business Work and Safety Provisions. More specifically, the bills:

- Extend the termination date to July 1, 2014, and require a new program evaluation on or before July 1, 2013, of the:
 - Division of Labor and Industry – The Division of Labor and Industry protects and promotes the health, safety, and employment rights of Maryland citizens. Major components of the division’s mission include preventing accidents and incidents which result in fatalities and injuries; preventing work-related illnesses; protecting employee wages and rights; and assisting regulated industries and employers in complying with division laws and regulations;
 - Amusement Ride Safety Advisory Board – The board regulates the safety of rides and attractions in amusement parks. All amusement rides or attractions in the State of Maryland must have a certificate of inspection before being allowed to operate. Rides and attractions in an amusement park must be inspected and certified at least annually. Certificates for rides and attractions at fairs and carnivals are valid for not more than 30 days. Each time a ride or attraction is

moved to a new location, it must be inspected and a new certificate issued before operation begins;

- State Mediation and Conciliation Service – The Division of Labor and Industry will now provide these services on a fee-for-service basis;
- Maryland Occupational Safety and Health Advisory Board – The board advises the commissioner on the application of and potential changes to the Maryland Occupational Safety and Health Act;
- State Wage and Hour Law – This law sets the State minimum wage and details how businesses in the State are required to compensate employees;
- Employment of Minors Act – This law sets the State standards for employment of all persons under the age of 18;
- Advisory Council on Prevailing Wage Rates – The Prevailing Wage Law regulates the hours of labor, rates of pay, conditions of employment, obligations of employers, and the powers and duties of certain public officials under contracts and subcontracts for public works in Maryland. The council advises the Division of Labor and Industry regarding the law’s implementation;
- Maryland Apprenticeship and Training Council (MATC) – MATC’s function is to formulate apprenticeship policies, register standards and agreements, determine which skilled trades are apprenticeable, and formulate and adopt standards of apprenticeship that safeguard the welfare of all apprentices.
- Require the Elevator Safety Review Board to be subject to the Maryland Program Evaluation Act and provide a termination date of July 1, 2014, for the board. A sunset evaluation must be completed by July 1, 2013.
- Repeal the following:
 - the Advisory Committee on Safety Training Programs for Power Equipment Operators and the requirement that the Commissioner of Labor and Industry, in consultation with the advisory committee, develop a training program for employers;
 - duplicative portions of the Public Safety Act related to regulation of unsafe scaffolding. Unsafe scaffolding is currently regulated by federal standards adopted by the Maryland Occupational Safety and Health program. The federal standards are the most up-to-date and comprehensive;
 - language related to the already terminated Advisory Committee on the Wage and Hour Law; and

- portions of the Maryland Employment Agency Act that require employment agencies and employment counselors to be licensed by the Commissioner of Labor and Industry. Approximately half of the licensees are home-based health care agencies. These agencies will now be subject to regulation by the Department of Health and Mental Hygiene under the Health – General Article.
- Alter the funding of the Maryland Occupational Health and Safety program and the Amusement Ride Safety program. These programs will be funded by a direct appropriation from the Workers’ Compensation Commission Fund. In prior years, the programs were funded by a general fund appropriation that was reimbursed by the Workers’ Compensation Commission.

Business Occupations

Senate Bill 267 (passed) extends the termination date of the State Board of Certified Interior Designers to July 1, 2014, and requires a new program evaluation on or before July 1, 2013. Uncodified language in the bill establishes term limits for board members and officers. Several provisions of the bill relate to the five design professional licensing boards: the State Board of Certified Interior Designers, the State Board of Architects, the State Board for Professional Engineers, the State Board of Professional Land Surveyors, and the State Board of Examiners of Landscape Architects. The bill requires an annual joint meeting of the chairmen of all five design boards to discuss issues of mutual importance and the publication of a joint newsletter.

The bill establishes a pilot project of special funding for the five design boards by creating a State Occupational and Professional Licensing Design Boards’ Fund and authorizing fee-setting authority for design professional licensing boards effective June 1, 2003. The fund will terminate on June 30, 2008. The Secretary of Labor, Licensing, and Regulation will calculate the direct and indirect costs attributable to each of the occupational and professional licensing design boards. Each board shall establish fees based on those calculations. Fees may not increase by more than 12.5 percent over the previous year’s fees. The Secretary, with the consent of the boards, may average direct and indirect costs for similar boards. Fees will no longer be set in statute. Each professional design board will set reasonable fees to cover the direct and indirect costs associated with the board. Current fees in statute remain in effect until the individual boards have set fees in accordance with the provisions in this bill related to cost allocation.

Other Program Evaluations

Three health occupations licensing boards also underwent program evaluations during the 2002 interim. A fourth health occupation licensing board, which underwent an evaluation during the 2001 interim, was not extended during the 2002 session. A full discussion of those bills can be found in Part J – Health of this *90 Day Report*.

- ***Senate Bill 500 (passed)*** extends the termination date of the Board of Physician Quality Assurance and renames the board to the State Board of Physicians;
- ***Senate Bill 99/House Bill 34 (both passed)*** extend the termination date of the State Acupuncture Board;
- ***Senate Bill 269/House Bill 376 (both passed)*** transfer the functions of the State Electrology Board to the new Electrology Practice Committee within the State Board of Nursing; and
- ***Senate Bill 268/House Bill 310 (both passed)*** extend the termination date of the State Board of Social Work Examiners.

Business Occupations

Licensed Design Professionals

Senate Bill 267 (passed) extends the termination date of the State Board of Certified Interior Designers and requires an annual joint meeting of the chairmen of the five design professional licensing boards to discuss issues of mutual importance. The bill also creates a State Occupational and Professional Licensing Design Boards' Fund and authorizes fee-setting authority for the design professional licensing boards. Each board is required to establish fees based on the direct and indirect costs attributable to the board, as determined by the Secretary of Labor, Licensing, and Regulation. In addition, uncodified language in the bill establishes term limits for board members and officers. A more detailed discussion of the bill is provided in the subpart "Legislation Related to Program Evaluation" within this Part H.

Senate Bill 476/House Bill 673 (both passed) repeal the authority of the State Board for Professional Land Surveyors to issue temporary and limited licenses; repeal a statutory waiting period for reexamination after two failures, providing instead for reexamination upon submittal of updated experience; repeal the right of an applicant to a conference with a board member after three exam failures; and create retired status surveyor licenses.

Senate Bill 614/House Bill 779 (both passed) require a licensed architect to complete 12 hours of continuing education credits per year, including 8 hours that relate to the health, safety, and welfare of the general public.

Sports Agents

Under current law, the Secretary of Labor, Licensing, and Regulation licenses sports agents under the Maryland Sports Agents Act. ***House Bill 361 (passed)*** repeals the current act and replaces it with the Maryland Uniform Athlete Agents Act, by updating current provisions and adding provisions related to student-athletes' rights and the licensing and regulation of athletes' agents. The bill applies to any athlete agent who has contact with any student-athlete in Maryland. Only a licensed agent may seek to represent student-athletes who are or may be

eligible to participate in intercollegiate sports. Any contract must contain a well-displayed warning to the student-athlete regarding eligibility to continue competing in the student-athlete's sport, notification responsibilities to the educational institution if a contract is signed, and rights related to cancellation of the contract. Educational institutions have a right of action to recover damages caused by violations.

The bill is based on model legislation produced by the National Conference of Commissioners on Uniform State Law (NCCUSL). The organization comprises more than 300 lawyers, judges, and law professors who draft model laws on subjects such as family law, electronic transactions, and health care and work toward their enactment in state legislatures. The NCCUSL draft model legislation has been adopted in similar form by 15 states, including Pennsylvania, Delaware, West Virginia; the U.S. Virgin Islands; and the District of Columbia. Eleven states are considering similar legislation this year.

Real Estate

House Bill 521 (passed) requires real estate appraisers to file quarterly reports with the State Commission of Real Estate Appraisers and Home Inspectors, or the commission's designee, indicating the address and appraised value of residential real estate in Baltimore City upon which the appraiser performed an appraisal during the calendar quarter. The Baltimore City Department of Housing and Community Development must serve as the designee of the State Commission of Real Estate Appraisers and Home Inspectors until funding is provided to the commission in the State budget.

Senate Bill 221 (passed) allows nonresident commercial real estate brokers and nonresident salespersons working for nonresident brokers to engage in transactions in the State if they apply for and receive a temporary permit from the Maryland Real Estate Commission. This bill also extends the date, from October 1, 2003, to October 1, 2004, by which a licensed real estate salesperson or licensed associate real estate broker must have the full name of the business with which they are affiliated in the same size as their name or trade name in advertisements.

Senate Bill 530 (passed) permits the Maryland Real Estate Commission to accept the certificate of completion, a photocopy of the certificate, an electronic mail certificate, or a photocopy of an electronic mail certificate as evidence of completion of a continuing education course.

Certified Public Accountants

Senate Bill 116 (passed) permits the State Board of Public Accountancy to set the passing score for certified public accountancy examinations. This is an attempt to create a more flexible scoring system based on changes to passing scores proposed and adopted by the American Institute for Certified Public Accountants (AICPA) and the National Association of State Boards of Accountancy (NASBA). Committees of AICPA and NASBA are currently reviewing each section of the examination and are actively considering changes to the scoring scale and required passing grade.

Senate Bill 188 (passed) authorizes the State Board of Public Accountancy to issue limited permits for specific jobs to firms outside the State if the firms have a simple majority of ownership by certified public accountants in Maryland or another state. An individual with an ownership interest in the firm who does not possess a license to practice certified public accountancy in this State or another state must be an active participant in the firm. Each member of a limited liability company who practices accountancy in the State must be licensed by the board.

Business Regulation

Elevator Renovation

Senate Bill 515/House Bill 798 (both passed) create two new categories of licensure – elevator renovator mechanic and elevator renovator contractor – to regulate the work performed in renovating the inside of an elevator cab. These licensees may not perform work that affects an elevator’s moving operation. The bills require the Elevator Safety Review Board to adopt regulations governing the qualifications and scope of practice of elevator renovators. Elevator refinishers, who refinish existing wood or surfaces of the interior of an elevator, are not required to be licensed.

Crematory Regulation

For the last three sessions, the General Assembly has considered regulating crematories in the State. News about a crematory in Georgia that was in violation of Georgia law increased the focus on this issue. Under current law, cremation services in Maryland are provided by both licensed morticians and regulated cemeteries. Licensed morticians that provide cremation services must maintain a complete file of a cremation that includes the signature of the next of kin, person identifying the body, or person responsible for disposition of the remains; time of death; and date and time of cremation. Cremation services provided by cemeteries are currently not regulated. *Senate Bill 484/House Bill 756 (both failed)* would have required the State Board of Morticians to license crematories and crematory operators.

Public Service Companies

Public Service Commission

Public Utility Regulation Fund

The Public Utility Regulation Fund (PURF) provides funding for the Public Service Commission (PSC) and the Office of People’s Counsel. The PURF serves as the holding account for funds currently collected to pay for all operational expenses of PSC and the Office of People’s Counsel. In addition to the annual assessments paid by public service companies, PSC may charge reasonable and nondiscriminatory fees, as set forth in the regulations, for specified filings and services. *House Bill 198 (passed)* allows PSC to retain unexpended funds at the end of a fiscal year in the PURF. PSC must deduct any excess retained funds from the appropriation

for the next fiscal year before determining the annual assessment to be paid by each public service company.

Electricity and Gas

Universal Service Programs

Electric Universal Program and Fund: The Electric Customer Choice and Competition Act of 1999, Chapters 3 and 4 of 1999, established the Electric Universal Service Program (EUSP) to assist low-income households with their electric bills. The EUSP is operated by the Department of Human Resources with oversight by PSC and funding from the Universal Service Program Fund. The EUSP provides (1) bill assistance and payment programs; (2) termination of service protection; and (3) cost-effective reduction and management of energy consumption for low-income customers, commonly called “weatherization.” Electric customers with incomes at or below 150 percent of the federal poverty level are eligible to participate.

Monies in the fund are provided by electric utilities through surcharges assessed on electric customer bills. Currently, in any year when there are unexpended monies, those monies are to be returned to the contributing customer classes in the same proportion that the customer classes pay into the fund. The 1999 Act required an assessment of \$34 million each year for fiscal 2001 through 2003 for distribution under the EUSP. This assistance is in addition to the formula-based grants available through the Maryland Energy Assistance Program (MEAP), which receives federal funds to assist low-income households with their energy bills.

Senate Bill 504/House Bill 797 (both passed) require PSC to continue collecting \$34 million each year from electric customers to fund the EUSP. The bills authorize the EUSP to provide assistance to customers with a higher income based on a waiver similar to that already used under MEAP. Any unspent program funds at the end of one fiscal year may be retained and spent in the first three months of the following fiscal year, in order to clear funds received near the end of the fiscal year. PSC may extend the retention period for an additional three months if needed. Only customers who qualified for assistance in the fiscal year the funds were collected, who applied before the end of that fiscal year, and who remain eligible at the time services are provided are eligible for services using those retained funds. Any retained funds that are not spent in the following fiscal year must be returned to electric customer classes, in the form of a credit, in the same proportion that they contributed to the fund. The bills also specify the factors on which PSC’s recommendation on the total amount of program funds for the following fiscal year must be based. This recommendation must be included in PSC’s annual report to the General Assembly on EUSP.

To enhance the accountability of the program, the bills require the Office of Legislative Audits to conduct a performance audit and report the results by January 7, 2004. Additional audits are to be conducted every three years or as directed by the Joint Audit Committee.

Because of difficulties in timely procurement of a contractor for weatherization assistance, approximately \$3.5 million in funds allocated to weatherization are expected to remain unspent as of the end of fiscal 2003. In order to allow these funds to be used for

weatherization, the bills specify that PSC may retain any unspent EUSP funds at the end of June 30, 2003, and make the funds available for disbursement through June 30, 2004, to electric customers who qualify for assistance during fiscal 2002 or 2003, apply for assistance before July 1, 2003, and who remain eligible at the time services are provided.

Natural Gas Universal Service Task Force: In the gas arena, *House Bill 158 (failed)* would have established a Natural Gas Universal Service Program Task Force to study similar forms of assistance for low-income gas customers.

Small Rural Electric Cooperatives

Senate Bill 547/House Bill 391 (both passed) streamline reporting and testing requirements for two small rural electric cooperatives. Somerset Electric serves a portion of Garrett County and A&N Electric serves Smith Island. Each of the cooperatives has less than 10 percent of its distribution territory in Maryland; maintains its principal place of business outside the State; and is subject to, and conducts its operations within the State in compliance with, the laws of the state in which its principal place of business is located.

The bills allow the cooperatives to submit estimates in accordance with a formula approved by PSC from information that the cooperatives submit to the Rural Utilities Services in the federal Department of Agriculture in lieu of the specific reports required by PSC for the following: (1) gross operating revenue for services provided in Maryland; (2) annual reports on corporate structure, affiliations of its officers and directors, and debt holdings; and (3) estimated kilowatt hours of electricity distributed in the State.

The bills also exempt these cooperatives from the requirement to submit information to PSC used in preparing the commission's ten-year plan listing of possible and proposed sites for the construction of electric plants. In addition, the bills exempt the cooperatives from complying with Maryland's gas and electric meter testing requirements, if the cooperatives comply with the comparable testing requirements of their principal place of business.

Local Government Aggregation

The issue of aggregation of electricity and gas demand by local governments was reintroduced in two forms: "opt-out" and "opt-in."

House Bill 24 (failed), as passed by the House of Delegates, would have allowed Montgomery or Prince George's county or their municipal corporations to act as an aggregator for the purchase of electricity on behalf of retail residential and small commercial customers unless PSC determines that more than 20 percent of those customers within the boundaries of the county or municipal corporation have selected an electric supplier other than the standard offer service supplier. PSC would have been required to establish standards and procedures to implement the provisions of the bill by October 1, 2003. The aggregation under *House Bill 24* is termed "opt-out," as residents of the jurisdiction would have been included in the aggregation program unless they affirmatively declined to participate.

Senate Bill 37 (failed), as passed by the Senate, would have authorized a county or municipal corporation to aggregate electric or gas customers within its boundaries and would have allowed a combination of two or more counties or municipal corporations to aggregate demand within their boundaries. Unlike the House version, aggregation under *Senate Bill 37* is termed “opt-in,” as the jurisdiction would have had to solicit residents to be included in the jurisdiction’s aggregation program.

Renewable Portfolio Standard

National efforts to restructure or deregulate the generation of electricity have decreased regulators’ ability to address environmental issues associated with different methods of generation. In an effort to promote responsible environmental policy in electric generation in the competitive marketplace, three bills were introduced to impose a “renewable portfolio standard” for all retail electricity products sold in the State. *Senate Bill 691/House Bill 752* and *House Bill 370 (all failed)* would have required PSC to establish a Clean Energy Portfolio Standard, with annual increments in minimum requirements for energy generated from qualifying renewable sources, starting in 2006. The bills variously addressed qualifying energy sources and facilities, a market-based clean energy credit system, and a Clean Energy Fund to receive funds paid in lieu of compliance with the standard.

Intrastate Hazardous Liquid Pipelines

Chapter 559 of 2001 authorized PSC to act on behalf of the U.S. Department of Transportation Office of Pipeline Safety (OPC) to implement the federal Hazardous Liquid Pipeline Act with respect to intrastate pipelines in Maryland that carry hazardous liquids or carbon dioxide. PSC acts as the agent of OPC for the inspection and enforcement of safety regulations. PSC has adopted regulations that incorporate the federal regulations.

House Bill 794 (passed) requires PSC, in collaboration with the American Society of Mechanical Engineers, to establish by regulation methods and best practices for intrastate pipeline facilities used for the transportation of hazardous liquids. The methods must include quantitative criteria to determine whether a wrinkle or other deformity may remain in a pipeline or should be remedied. The bill also requires (1) intrastate pipeline operators to make certain notifications to PSC and the National Response Center; (2) PSC to notify the National Response Center when certain errors or new information are discovered; and (3) intrastate pipeline operators to provide certain annual reports to PSC and owners of real property on which pipelines are located or adjacent or contiguous to real property on which pipelines are located.

The bill also requires PSC to hire an engineer who specializes in the storage of and transportation of hazardous liquid materials by pipeline and provide training for its staff who deal with hazardous liquid pipelines.

Insurance

Regulation of Insurers and Insurance Producers

Appointment of Insurance Producers and Continuing Education Requirements

Appointment of Insurance Producers: *House Bill 200 (Ch. 35)* requires an insurer to maintain a register of appointed producers who sell, solicit, or negotiate insurance contracts for the insurer. Within 30 days after an insurer appoints an insurance producer, the Act requires an insurer to include in the insurer's producer register each producer's name and license number, the date of the appointment, and any other information required by the Maryland Insurance Commissioner. An insurer must send written documentation of the appointment to the insurance producer. In turn, the insurance producer must maintain documentation of the appointment and a list of the insurers that have appointed the producer.

The Act prohibits an insurance producer from acting on behalf of an insurer unless the producer is listed in the insurer's register. An insurer must open its register to inspection and examination by the commissioner and may maintain the register electronically.

An insurer may initially accept an application for life insurance, health insurance, or an annuity from an insurance producer who is not appointed and not listed in the insurer's register if, within 30 days after accepting the application, the insurer rejects the application or appoints and lists the producer in the register.

Within 30 days after an insurance producer's appointment, employment, or other insurance business relationship with an insurer is terminated, the insurer must enter the effective date of the termination in the insurer's register. An insurer or the insurer's authorized representative must notify the commissioner of an appointment's termination when the termination is a result of the belief that the producer has engaged in one of the acts for which the commissioner may deny, suspend, revoke, or refuse to renew or reinstate a license. If an insurance producer's appointment is terminated because the producer failed to renew the producer's license and the license is reinstated, an insurer may reappoint the producer retroactive to the date the license expired.

Continuing Education Requirements for Insurance Producers: *House Bill 200* also repeals the \$50 fee for approval of a continuing education course by the Maryland Insurance Commissioner and makes review of continuing education courses by the commissioner optional.

Insurer Assets and Investments

Out-of-State Investments: *Senate Bill 652/House Bill 965 (both passed)* repeal the 15 percent limit on the percentage of a domestic (Maryland) insurer's assets that may be kept outside the State. The bills authorize the following assets of an insurer to be held outside the State: (1) securities held by a domestic insurer or in compliance with regulations adopted by the Maryland Insurance Commissioner; and (2) investments in specified derivatives; in specified lending, repurchase, reverse repurchase, and dollar roll transactions; and in any other

transactions or securities involved in a transaction exempted by the commissioner. The bills also require the derivative use plan approved by the board of directors of a Maryland life insurer to include collateral arrangements supporting derivative transactions.

Life Insurer Investment Practices: *Senate Bill 600/House Bill 1037 (both passed)* alter the manner in which a Maryland-based life insurer's board of directors must manage the insurer's investments. The bills establish a procedure for the board to set standards for the types of reserve investments that the life insurer may make. The bills restrict the percentage of a life insurer's total investment of its reserves that may be made in medium and lower grade investments.

Property and Casualty Insurance

Educational or Promotional Material Giveaways

Senate Bill 632/House Bill 711 (both passed) prohibit a person, in connection with a property and casualty insurance policy, from knowingly offering, promising, or giving any valuable consideration not specified in the policy, except for educational materials, promotional materials, or articles of merchandise that cost less than \$10, regardless of whether a policy is purchased. The same provision already applies to life and health insurance policies.

Joint Insurance Association

The Joint Insurance Association (JIA) was established under the Maryland Property Insurance Availability Act to provide property insurance and homeowner's insurance to those who are unable to obtain insurance from insurers licensed in Maryland. The JIA comprises all property and casualty insurers operating in the State. The JIA's governing committee must adopt a program of operation in accordance with the Maryland Property Insurance Availability Act. *House Bill 1153 (passed)* increases the maximum liability insurance limit that the JIA may provide on real or personal property from \$500,000 to \$1.5 million. The bill also limits coverage to real or personal property composed of or contained in a single building.

Motor Vehicle Insurance

Valuation of Motor Vehicles: No statutory provision requires motor vehicle liability insurers to use a particular method in determining the valuation of motor vehicles that are totally destroyed in an accident. *Senate Bill 314/House Bill 641 (both passed)* require the Maryland Insurance Commissioner to adopt regulations that establish standards and procedures for (1) settling claims involving the total loss of a private passenger motor vehicle; and (2) determining the vehicle's total loss value.

Underwriting Standards: Generally, an insurer or insurance producer may not cancel or refuse to underwrite or renew a particular insurance risk or class of risk except under standards that are reasonably related to the insurer's economic and business purposes. In the case of private passenger motor vehicle insurance, standards reasonably related to the insurer's economic and business purposes, without the need for statistical validation, include conviction of

the named insured or a covered driver under the policy of (1) homicide, assault, reckless endangerment, or criminal negligence arising out of the operation of the insured motor vehicle; (2) using the insured motor vehicle to participate in a felony; or (3) driving while intoxicated or impaired by drugs.

Chapter 5 of 2001 revised the State's laws governing driving while under the influence of drugs or alcohol. *Senate Bill 725/House Bill 1125 (both passed)* conform the provisions under Maryland's insurance laws to Chapter 5. Specifically, the bills provide that a private passenger motor vehicle insurer may, without statistical validation, cancel or refuse to underwrite or renew a particular insurance risk for driving or attempting to drive while (1) under the influence of alcohol or alcohol per se; (2) impaired by drugs; (3) impaired by drugs and alcohol; or (4) impaired by a controlled dangerous substance.

Life Insurance

Terrorism Exclusions

A life insurance policy may contain a provision that excludes or restricts coverage for death under specified circumstances. *Senate Bill 658 (passed)* prohibits a life insurance policy or group life insurance policy from excluding or limiting liability for death that is the result of an act of terrorism in which the covered person did not participate.

Annuity Contracts

Senate Bill 333 (passed) reduces, from 3 to 1.5 percent, the minimum interest rate that must be paid on the nonforfeiture amount under an annuity contract upon cancellation. The bill is effective June 1, 2003, and terminates May 31, 2005.

Investment Accounts Held by a Life Insurer

A life insurer may allocate to one or more separate investment accounts, in accordance with a written agreement, any amounts paid to it in connection with a qualified retirement plan that are to be invested by the insurer in accordance with the agreement and applied to the purchase of guaranteed income or incidental benefits. *Senate Bill 601/House Bill 551 (both passed)* require a life insurer, if a separate retirement investment account provides a fixed guaranteed return not subject to market value adjustment, to hold assets that equal or exceed the reserve amount that would be required if the separate investment account was an obligation of the life insurer's general account.

Reinsurance – Ceding Insurer Insolvency

Senate Bill 165/House Bill 114 (both passed) alter the requirements for allowing a ceding insurer credit for reinsurance. The bills require the reinsurance contract to provide that, in the event the ceding insurer becomes insolvent, the reinsurance will be payable under the terms of a reinsurance contract on the basis of reported claims allowed by a court in a liquidation proceeding, without diminution because of the ceding insurer's insolvency. *Senate Bill*

165/House Bill 114 allow the reinsurer, in the event of the insolvency of the ceding insurer, to pay directly the ceding insurer, its domiciliary receiver, or another payee of the reinsurance that is specifically provided in the contract. Further, the bills authorize a reinsurer to investigate a claim and interpose, in the liquidation proceeding, any defense that it determines is available to the insolvent ceding insurer or its receiver. The provisions in the bills codify current practice. In an effort to make State laws uniform for reinsurance contracts, similar provisions have either been adopted or are being considered by other states.

Surplus Lines Insurance – Premium Finance Agreements

A surplus lines broker must charge the amount of the premium receipts tax to the insured upon delivery of the initial confirmation of insurance. A surplus lines broker may charge a fee of up to \$100 for each personal lines policy and up to \$250 for each commercial lines policy procured by an insurance producer to whom the broker pays a commission. Further, a surplus lines broker may charge an inspection fee to recoup the actual cost of inspection required for the placement of surplus lines insurance under specified conditions. *Senate Bill 167/House Bill 717 (both passed)* authorize a premium finance agreement, in addition to financing the premium of a surplus lines insurance contract, to finance (1) the premium receipts tax applicable to a surplus lines insurance contract; (2) any policy fee charged by the surplus lines broker; and (3) any inspection fee charged by the surplus lines broker.

Horse Racing and Gaming

Video Lottery Terminals

Background and Activity in Surrounding States

In recent years, various proposals have been introduced to authorize electronic slot machines, known as video lottery terminals (VLTs), at the State's horse racing tracks and at tourist destinations in the State. Types of gaming already authorized in the State include pari-mutuel betting, a State lottery, commercial bingo, and gaming activities conducted by or for the benefit of charitable organizations.

Many Marylanders currently travel to neighboring states to play VLTs, which are authorized at horse racetracks in Delaware and West Virginia and generate significant revenues for those states. In Delaware, VLTs generated approximately \$565 million in net revenues (after prize payouts) in fiscal 2002. Approximately 60 percent of these revenues were distributed to racetracks and purses, 35 percent to the state's general fund, and the remaining 5 percent to cover administrative costs. In fiscal 2002, VLTs in West Virginia generated approximately \$595 million in net revenues, of which 60 percent was distributed to racetracks and purses and 30 percent to the state lottery fund. The remaining 10 percent was distributed to tourism initiatives, local governments, the state racing commission, the state pension fund, greyhound and thoroughbred development, and administrative costs.

In 2001 New York enacted legislation authorizing VLTs at several racetracks as well as at a number of Native American casinos. The Pennsylvania legislature is currently considering several bills that would authorize VLTs at horse racetracks in Pennsylvania.

The Administration's VLT Proposal

Senate Bill 322/House Bill 359 (both failed) were introduced by the Administration and would have authorized VLTs at four horse racetrack locations in the State. As introduced the bills would have authorized up to 10,500 VLTs at up to four horse racing tracks in the State, provided for one-time license fees, abolished the State Lottery Agency and State Racing Commission and established the State Lottery and Horse Racing Agency and Commission, created the Education Trust Fund and other special funds, and continued the current prohibition on additional forms of commercial gaming.

As amended and passed by the Senate, *Senate Bill 322* would have authorized up to 11,500 VLTs in the State, with 3,500 VLTs each at the Pimlico Racecourse in Baltimore City, Laurel Park in Anne Arundel County, and the Rosecroft Raceway in Prince George's County. The bill would have authorized an additional 1,000 VLTs at a proposed track in Allegany County. Below is an overview of the major provisions of *Senate Bill 322* as passed by the Senate.

VLT Administration and Oversight: *Senate Bill 322* would have provided that VLT regulation and oversight would be carried out by the State Lottery Commission. The VLTs would be owned or leased by the State Lottery Commission and under the control of the Lottery Commission at all times. Membership on the commission would have increased under the bill by four members for a total of nine members that would be restricted from having any financial interest in a VLT facility.

State Lottery Commission Duties: *Senate Bill 322* would have granted the commission the authority to issue subpoenas and conduct investigations and hearings and require a bond for faithful performance of the requirements of the bill. The bill would have required commission employees to be present at VLT facilities during all hours of VLT operation for the purpose of certifying revenue from the VLTs and receiving complaints from the public.

VLT-related Licenses: *Senate Bill 322* would have required licenses to be obtained by VLT operators, VLT manufacturers, VLT employees, anyone hired by a VLT operator to manage a VLT facility, and any other individuals related to the VLT facility that the commission determined should be licensed. All applicants for VLT-related licenses under the bill would be subject to an application process that included a criminal background investigation by the State Police.

The bill also would have required all applicants for VLT-related licenses to establish their qualifications, including (1) financial stability and background of the applicant and all individuals and business entities associated with the applicant; (2) integrity of financial backers and investors; (3) good character and honesty; and (4) sufficient business ability and experience.

The bill would have established a license term of one year for all VLT-related licenses except VLT operation licensees which would have been granted a 15-year license term.

Additional VLT Operation License Requirements: Under *Senate Bill 322*, an applicant for a VLT operation license and a VLT licensee would have been additionally required to:

- pay a one-time application fee of \$5 million (\$1.5 million for the Allegany track);
- invest at least \$150 million in construction and related costs and provide at least 500 full-time jobs (the Allegany track would have had to invest \$43 million and provide at least 150 jobs);
- offer at least 15 percent of equity investment to minority businesses if the licensee holds one license and 10 percent if the licensee holds two or more licenses;
- meet the State’s minority business participation requirements for facility construction and procurement and the relevant county’s minority business participation requirements, if they are higher than the State’s;
- maintain a specified number of live horse racing days at each horse racetrack location; and
- develop a racing improvement plan to improve the quality and marketing of horse racing at each track that included \$4 million in capital maintenance and improvements in the horse racing facilities.

Additionally, under the bill, if a VLT operation license were granted to the Pimlico Race Course and to Laurel Park, both licenses would have been revoked if the Preakness was transferred out of the State.

Distribution of VLT Proceeds: *Senate Bill 322* would have provided for the following distribution of gross proceeds, after payout to players:

- 46 percent to an Education Trust Fund established under the bill;
- 5 percent to the State Lottery Agency for administrative costs (after the first year, the distribution would be 4.3 percent);
- 39 percent to VLT operation licensees;
- 4.75 percent for local development grants that would have been provided to the local governments in which video lottery facilities would be located; and
- 5.25 percent to the Purse Dedication Account established under the bill to enhance horseracing purses and to provide funds for the horse breeding industry (after the first year, the distribution would have increased to 5.95 percent).

Purse Dedication Account: *Senate Bill 322* would have created a Purse Dedication Account to which 5.25 percent of gross proceeds would have been distributed in the first year and 5.95 percent in the following years. Funds from the account would have been distributed as follows:

- from the proceeds at Laurel and Pimlico, 89 percent to mile thoroughbred purses and 11 percent to the Maryland-bred Race Fund;
- from the proceeds at Rosecroft, 89 percent to standardbred purses and 11 percent to the Standardbred Race Fund; and
- from the proceeds at Allegany County, an amount to the thoroughbred industry and the standardbred industry prorated by the number of days of each type of racing at the track.

Education Trust Fund: *Senate Bill 322* would have created an Education Trust Fund as a special, nonlapsing fund that would have received 46 percent of gross VLT revenues to be used to fund the Bridge to Excellence in Public Schools Act of 2002 (Chapter 288).

Local Development Councils and Transportation: From the local development grants provided to the local governments where VLT facilities are located, *Senate Bill 322* would have allowed for the proceeds to be used for infrastructure improvements, public safety, and other needs in the communities in the immediate proximity to where the facility is located.

The bill also would have created a Local Development Council in each area where a VLT facility would be located to advise, comment, and make recommendations on a plan developed by the county providing for the use of the Local Development Grant funds.

The bill further would have allowed the State to pay for the reasonable transportation costs necessary to mitigate the impact on the communities in immediate proximity to the VLT facilities and to make VLT facilities accessible to the public.

Additional Fee for Compulsive Gambling Fund: *Senate Bill 322* would have additionally assessed a \$390 fee per VLT terminal to be paid by VLT operation licensees that would have been placed into a Compulsive Gambling Fund administered by the Department of Health and Mental Hygiene. The fund would have been used to establish a 24-hour hotline, provide counseling and other support services for compulsive gamblers, and establish problem gambling prevention programs.

Estimated Revenues: Under *Senate Bill 322*, the Department of Legislative Services estimated that approximately \$1.3 billion in gross proceeds (after prize payouts) could have been generated once all the proposed VLTs were operating at full market potential which was further estimated to occur in fiscal 2008. Once fully operational, the Department of Legislative Services estimated that the VLT distribution under the bill could have generated approximately \$600 million annually for the Education Trust Fund, \$500 million annually for the horse racing tracks, \$62 million annually for local governments, and \$77 million annually for the Purse Dedication Account.

Study Commission on VLTs in Maryland

To further study the expansion of gambling in Maryland and VLTs, the House of Delegates passed *House Bill 800 (failed)*, which would have established a 16-member Commission to Study Video Lottery Terminals in Maryland. The commission would have been required to review and evaluate the effects of authorizing the operation of VLTs for gaming purposes in the State, including:

- the estimated annual impact on State revenues;
- the potential social costs of increases in compulsive gaming and the behaviors associated with compulsive gaming;
- the potential economic development benefits and the effects on other economic sectors in the State, including the horse racing, tourism, and restaurant industries;
- the impact on State lottery revenues and other gaming activities in the State;
- the impact of VLT operations in Delaware and West Virginia and the potential impact of gaming changes in neighboring states;
- the appropriate number of and locations for VLT facilities, including the feasibility of locating these facilities at existing racetrack locations and the potential costs and appropriate allowances for expenses of operating VLTs;
- the potential impact of VLT facilities on local jurisdictions; and
- the impact on law enforcement and criminal activity.

The bill would have required the commission to submit a report of its findings and recommendations to the Governor and the General Assembly by December 31, 2003.

Other Legislation Related to VLTs

Several other bills would have authorized VLTs in the State. These bills included *House Bill 78/Senate Bill 699*, *House Bill 890*, and *Senate Bill 446 (all failed)*. Additionally, *House Bill 1122 (failed)* was introduced as an emergency bill and would have required that a special election be held in the county in which a video lottery facility is to be located before an owner of a video lottery facility offers VLTs for public use.

VLT Distribution to Nonprofits: Senate Bill 708 (failed) was introduced contingent on the passage of *Senate Bill 322/House Bill 359* and would have required a county or city that receives distributions from the operation of VLTs to distribute 50 percent of the revenue to a nonprofit organization located within a one-mile radius of the VLT facility. The bill also established selection criteria for choosing a nonprofit and provided for the distribution of revenue from the nonprofit.

Host Community Gaming Benefits Authority: *Senate Bill 452/House Bill 491 (both failed)* would have established a 16-member Host Community Gaming Benefits Authority in each jurisdiction where VLTs were authorized and operated. The bills granted specified powers and duties to each authority related to the oversight of gaming venues and the administration of the Host Community Gaming Benefits Funds (nonlapsing special funds) established by the bill. Additionally the bills required the State to pay 5 percent of revenues generated from the operation of slot machines in each jurisdiction into each fund. The purpose of the funds was to improve the communities within the host community gaming district that would be impacted by the operation of slot machines at the gaming venue.

VLTs – Interstate Revenue Sharing: *House Bill 1134 (failed)* would have required the Governor to negotiate a revenue sharing arrangement with each neighboring state with gaming facilities that feature VLTs, based in part on the number of Maryland visitors to those gaming facilities. The bill required that the revenues realized by a revenue sharing agreement would go to the general fund. The bill also would have provided that if the governing body of a neighboring state does not commit to the negotiated revenue sharing agreement, the General Assembly could have authorized the installation of VLTs at the following locations: (1) the Chesapeake House on Route I-95 or a nearby venue close to the Delaware state line; (2) a venue in Hagerstown or close to the intersection of Routes I-70 and I-81 or the Virginia and West Virginia state lines; or (3) Sandy Hook or a nearby venue close to the West Virginia state line.

Similarly, *House Joint 15 (failed)* would have urged the Governor to negotiate a revenue sharing arrangement with neighboring states that have gaming facilities with VLTs, based in part on the number of State visitors to those gaming facilities.

Transfer of the Preakness Stakes Name and Trademarks: *Senate Bill 697/House Bill 1014 (both failed)* would have prohibited VLTs and other forms of gambling, except for pari-mutuel betting, from being conducted at Pimlico Race Course in Baltimore City unless the owner of the name, copyrights, service marks, trademarks, and trade names associated with the Preakness Stakes has transferred them unconditionally and unencumbered to the State. The bill would have required the owner to make the transfer before the implementation of any law that authorized the operation of VLTs or any other form of gambling at the Pimlico Race Course.

Local Gaming Legislation

Local Gaming Accountability Act of 2003

House Bill 281 (failed) would have required an organization qualified to conduct a gaming event to submit a report under affidavit every six months to the State Lottery Agency and the Attorney General. A gaming event is defined under current law as a carnival, bazaar, or raffle and qualified organizations are a volunteer fire company, or a bona fide religious, fraternal, civic, war veterans, or charitable organization.

The report under the bill would have been required to contain an accounting of all income raised by each gaming event since the last report that the organization has conducted and the disposition of that income. The bill also would have authorized the Attorney General to prohibit

a county from allowing an organization to conduct a gaming event for up to one year if the organization failed to comply with the requirements of the bill.

Charles County

House Bill 619 (passed) increases, from \$1,000 to \$5,000, the maximum value of a money prize that may be awarded in a single bingo game in Charles County and increases, from \$5,000 to \$10,000, the maximum value of all money prizes that may be awarded by an organization at a single bingo event in Charles County. The bill also limits a bingo event to four hours per day.

Prince George’s County

House Bill 452 (failed) would have repealed the prohibition against conducting charitable gaming nights in Prince George’s County. It authorized the Prince George’s County Department of Environmental Resources to issue a permit for a charitable gaming event to an applicant that meets specified requirements. The Prince George’s County Council would have been authorized to impose a tax of up to 20 percent of the net proceeds of charitable gaming events to be used for public education purposes.

The bill would have provided for the application process for a charitable gaming permit, established a \$150 permit fee for each charitable gaming event, and limited the number of permits that may be authorized to 21 and the number of gaming events that may be held by a group to four per month. Under the bill, the county sheriff would be required to enforce the operation of all gaming events.

Allegany County

Paper gaming is a game of chance in which prizes are awarded and the devices used to play the game are constructed out of paper or cardboard. Paper gaming includes tip jar and punchboard gambling. *House Bill 1000 (passed)* establishes in Allegany County a paper gaming license procedure for holders of Class A, C, and D (on-sale) alcoholic beverages licenses and qualified organizations.

Qualified organizations under the bill are volunteer fire companies or a bona fide religious, fraternal, civic, war veterans, or charitable organization. The bill also establishes paper gaming taxes, establishes a Special Gaming Fund, and specifies the use of money from the gaming fund. The bill further authorizes the Allegany County Commissioners to adopt rules and regulations, hire inspectors, and adopt an ordinance or resolution for penalties for violations of paper gaming rules and regulations.

Horse Racing

The horse racing industry in Maryland employs more than 15,000 people and generates approximately \$600 million annually in direct economic activity for the State. Like other states, Maryland’s racing industry has lost market share in recent years to other forms of commercial

gaming. Some states, including two in this region, have sought to revive their industries by introducing slot machines at racetracks. Maryland has taken other approaches to restructuring its racing industry in recent years, including subsidizing purses, providing tax relief, and expanding marketing efforts.

Racing Act of 2003

Senate Bill 538 (failed) as passed by the Senate would have repealed the Maryland Racing Facility Redevelopment Bond Program and the Racing Facility Redevelopment Bond Fund that were created to assist horse racing facilities with capital improvements as part of Chapter 309 of 2000 (the Racing Act of 2000). The Racing Facility Redevelopment Bond Fund was established to service any debt issued in relation to racetrack improvements and consists of two funding sources: (1) additional takeout allocations; and (2) uncashed pari-mutuel tickets.

Senate Bill 538 also would have redirected funds from the uncashed pari-mutuel tickets to the horse racing special fund and would have altered the additional takeout allocations to reduce a licensee's portion of specified takeouts for both thoroughbred and harness racing to the percentages prior to the enactment of the Racing Act of 2000.

Additionally, the bill would have authorized representatives of thoroughbred racing tracks, owners and trainers, and breeders to agree to allocate the takeout for purses in a way other than that specified under current law, as authorized by the Racing Act of 2000. *Senate Bill 538* would have further clarified that the State racing tax rate is 0.32 percent of each mutuel pool and also would have provided that a portion of the "takeout" be used for purses as authorized by the Racing Act of 2000.

As introduced, *Senate Bill 538* was crossfiled with *House Bill 644 (failed)* and would have reduced the licensee's portion of specified takeouts for both thoroughbred and harness racing to the percentages prior to the enactment of the Racing Act of 2000.

Harness Racing Takeout

Senate Bill 111 (failed) would have authorized the harness racing industry to allocate the takeout for purses and the Maryland Standardbred Race Fund from the share retained by a harness track licensee in a way other than that specified under current law, if a written agreement is signed by the harness racing industry. The harness racing industry includes a licensee, a group that represents a majority of the standardbred owners and trainers, and a group that represents a majority of the standardbred breeders in the State when the agreement is signed.

State Racing Commission Reorganization

Senate Bill 485 (failed) would have abolished the nine-member State Racing Commission and established a five-member Thoroughbred Racing Commission and a five-member Standardbred Racing Commission in its place. The bill would have established the qualifications of commission members; the term of commission memberships; the designation of respective commission chairmen; commission meetings; compensation of commission members;

an executive director and staff for each commission; the specified powers of each commission; and the testing laboratory of the Thoroughbred Racing Commission and of the Standardbred Racing Commission.

Economic and Community Development

Neighborhood Intervention Program

Many local communities struggle to combat blight in their neighborhoods. *House Bill 620/Senate Bill 618 (both passed)* expand the permitted uses of the Community Legacy Financial Assistance Fund to allow funds to be used for neighborhood intervention projects, which may include redeveloping properties and demolishing deteriorated or dangerous buildings. The Community Legacy Board must set aside at least 10 percent of the fund to neighborhood intervention projects, expected to be approximately \$870,000 in fiscal 2004. Each project may receive up to \$500,000.

A project may be sponsored by a community development financial institution (CDFI) to help owner-occupants, community development organizations, or local governments to buy and redevelop property that needs rehabilitation and is located in an otherwise stable neighborhood. CDFIs are specialized financial institutions that provide financial products and services such as mortgage financing for first-time homebuyers, financing for needed community facilities, and loans to rehabilitate rental housing. Local governments may also be awarded money to demolish deteriorated buildings or structures that are too dangerous to be used or occupied. They must also agree to repay the financial assistance up to the amount received from the net proceeds of the sale of the property on which the demolition took place or any payment to the sponsor for the costs incurred in demolishing improvements on the property.

The State has been actively seeking to build the capacity of CDFIs and the community development corporations (CDCs) that they support. The CDCs have been patching together public and private funds for intervention buying, but current federal and State funding programs have limitations that may interfere with particular redevelopment projects. These bills provide flexibility and speed to address intervention projects before stable neighborhoods degenerate. Baltimore City is one of the jurisdictions expected to benefit from the additional revenue made available under these bills. The city has approximately 14,000 vacant and abandoned properties; a single rowhouse costs about \$10,000 to demolish.

Financing Programs

Three bills that passed during the 2003 session expand business financing programs to allow State loans to be used for refinancing debt, disaster relief, and certain types of development costs. *Senate Bill 51/House Bill 103 (both passed)* expand the purposes for which the Maryland Small Business Development Financing Authority (MSBDFA) may use the Small Business Development Guaranty Fund, to include guaranteeing refinancing of up to 80 percent of the principal and interest of an applicant's existing long-term debt. MSBDFA began

operating in fiscal 1984 to provide partial guarantees for long-term capital and equipment loans to small businesses, including those that are socioeconomically disadvantaged.

The Department of Business and Economic Development (DBED) advises that although it was able to provide \$600,000 for the Town of LaPlata following a recent tornado and \$200,000 for local businesses, there were significant delays in providing that assistance. *House Bill 497 (passed)* allows DBED to use the Maryland Economic Development Assistance Fund (MEDAF) and the Maryland Competitive Advantage Financing Fund to assist businesses and projects in federal disaster areas. By expressly including federal disaster areas in the permissible uses of these funds, the bill eliminates time-consuming eligibility determinations. A business must apply for assistance from either fund within one year of the federal disaster declaration.

The General Assembly also expanded MEDAF to allow loans to businesses for development and carrying costs related to real estate, equipment, or site improvements under *House Bill 496 (passed)*. Development and carrying costs include settlement costs, insurance, interest, taxes, government fees, utilities, and the costs of managing and securing the asset. The bill allows the cost of a feasibility study for a local government to be paid directly from MEDAF if the study is supported by a resolution adopted by the governing body of the jurisdiction. Further, the bill provides that proceeds of investments from MEDAF no longer have to be made in conjunction with a loan or a grant from MEDAF.

Rural Development Programs

Senate Bill 744/House Bill 1147 (both passed) consolidate the State's rural capacity development programs, including the Forvm for Rural Maryland and the Maryland Agricultural Education and Rural Development Assistance Fund, rename the Forvm as the Maryland Rural Council, and relocate the council from the Department of Business and Economic Development to the Maryland Department of Agriculture.

Radium Pilot Program

House Bill 39 (passed) creates a Radium Pilot Grant Program in the Department of Housing and Community Development (DHCD) to provide financial aid to residential well owners for removing radium or gross alpha from well water. DHCD must award grants that are equal in amount to each grant awarded by a county that participates in the program. The combined county and State grant may not exceed 25 percent and may not be less than 10 percent of the cost of the water treatment system installed by the well owner. Radium is a rare, radioactive metal that occurs naturally in trace amounts in rocks, soils, and groundwater. In certain doses, it can cause bone cancer; however, the potential for bone cancer caused by radium in water is not well documented. In 1998 Anne Arundel County sampled 50 private wells as part of a pilot water quality study. It found that 15 of the 22 wells in the northern part of the county had gross or total alpha radiation that exceeded federal drinking water levels set by the U.S. Environmental Protection Agency. The county estimates that 16,000 wells are in areas where radium may be a problem and that approximately 5,900 wells may require treatment. Implementation of the program is subject to the availability of funds in the State budget.

Planning for Potential Military Installation Changes

Three military facilities in the State were closed during the last round of base closures following the recommendations of the Base Closure and Realignment Commission; however, several bases were also expanded, and Maryland as a whole experienced a net gain. Regardless, the U.S. Department of Defense estimates that military bases nationwide have an excess capacity of 20 to 25 percent. **House Bill 888 (passed)** creates a 19-member Maryland Military Installation Strategic Planning Council to review State policies in preparation for the next round of base realignment (also known as the Efficient Facilities Initiative), scheduled to begin in 2005. The council must report its findings and recommendations to the Governor and the General Assembly by December 31, 2003. Eight federal military installations currently operate in Maryland, including three Army and three naval facilities, one Coast Guard station, and one Air Force base.

Broadband Communications in Rural Areas

In February 2003 the Maryland Technology Development Corporation released a report that indicated an extremely high interest in high-speed bandwidth from all sectors of society in Maryland but found that many rural areas do not have access to high-speed bandwidth. It also revealed that citizens and small businesses are often not aware of available bandwidth services due to lack of marketing. **Senate Bill 487/House Bill 697 (both passed)** create a 20-member Task Force on Broadband Communications Deployment in Underserved Rural Areas to develop proposals and recommendations for the establishment and enhancement of broadband communications in rural areas and to oversee the implementation of the recommendations. The bills also “strongly encourage” the Department of Business and Economic Development and the Department of Budget and Management in assisting the task force to identify rural broadband demand, identify State and local governmental and private telecommunications facilities in rural areas, and to facilitate matching demand with existing supply. The bills require three interim reports and a final report due June 30, 2005.

Minority Business Enterprise

Senate Bill 526 (failed) would have required local governments that received financial assistance over \$100,000 from the Economic Development Opportunities Program Fund or the Maryland Economic Development Assistance Authority and Fund to apply their existing minority business procurement goals to the project funded by the financial assistance. The bill also would have allowed the Department of Business and Economic Development to establish minority business procurement standards for private entities and for local governments that did not have their own programs in place when the private entity or local government received financial assistance from either of the two State programs. DBED would have been required to consider the feasibility of obtaining the required goods or services from minority businesses. A minority business enterprise was defined as an individual who had a social or economic impediment beyond the personal control of the individual, such as lack of financial capacity, geographical or regional economic distress, or lack of formal education, and did not limit the ability of the individual to provide the required goods or services. The term also included a

business entity that was at least 51 percent of which was owned and controlled by individuals who demonstrated a social or economic impediment.

Workers' Compensation

Occupational Disease

Currently, in addition to police officers, Montgomery County and Prince George's County deputy sheriffs who suffer from heart disease or hypertension resulting in partial or total disability are covered by a presumption of compensable occupational disease under the workers' compensation law. *Senate Bill 633/House Bill 736 (both passed)* extend this presumption to include Baltimore City deputy sheriffs. Newly hired deputies are eligible for the presumption to the extent that their heart disease or hypertension becomes more severe than it was prior to employment as a deputy sheriff. Current deputies are covered to the extent that a condition worsens going forward from the time a required medical report is filed.

Injured Workers' Insurance Fund

The Injured Workers' Insurance Fund (IWIF) is the insurer of last resort for workers' compensation coverage in Maryland. IWIF is also the third party administrator for the State, as a self-insured employer, for its workers' compensation claims. Insurance firms are required to maintain certain levels of surplus to safeguard against insolvency, as specified in the risk based capital standards developed by the National Association of Insurance Commissioners. The risk based capital calculations include an "excessive premium growth" penalty which requires insurers that have significant growth in a relatively short period to increase their surplus level to compensate for the growth. *Senate Bill 85/House Bill 418 (both passed)* create a two-year exemption for IWIF, from October 1, 2003, to December 31, 2004, from any penalty associated with an "excessive growth premium" in any risk based capital calculation. However, by January 1, 2005, IWIF is required to meet the same solvency requirements as other insurers.

Subsequent Injury Fund

The Subsequent Injury Fund pays workers' compensation benefits that involve the combined effect of a preexisting disability and an accidental workplace injury. The Subsequent Injury Fund is funded by employers and their insurers. Chapter 442 of 1987 raised the rate at which an employer or its insurer makes a payment to the Subsequent Injury Fund based on the amount of workers' compensation permanent disability or death awards from 5 to 6.5 percent and included a sunset date. The sunset date has been extended five times since then. *Senate Bill 106 (passed)* is a departmental bill that makes permanent the practice of employers or their insurers who pay 6.5 percent by repealing the termination provision.

Senate Bill 140/House Bill 122 (both passed) apply to workers' compensation appeals where the Subsequent Injury Fund is impleaded. The bill limits the requirement of suspension of further proceedings and remand to the Workers' Compensation Commission for cases in which the impleader is filed in a circuit court at least 60 days before a scheduled trial. For an impleader

filed at any other time, a court may suspend further proceedings and remand the case to the commission if good cause is shown.

Workers' Compensation Benefits

Students in Unpaid Work-based Learning Experiences

House Bill 1128 (passed) provides that a county board of education that places a student in a structured, unpaid work-based learning experience with an employer may choose to secure workers' compensation coverage for the student. The employer is responsible to secure workers' compensation coverage for the student. However, the employer may satisfy this obligation if the county board chooses to secure the coverage. If a board secures the coverage, the participating employer must reimburse the county board the lesser of the cost of the workers' compensation premium or \$250, and the student is considered to be an employee of the employer under workers' compensation law. The bill is applicable to students in unpaid work-based learning experiences beginning with the 2003-2004 school year.

Wholly Dependent and Partly Self-supporting Spouses

Under current law, a wholly dependent surviving spouse receives death benefits while the spouse is dependent. If the spouse subsequently becomes partly self-supporting, the death benefits cease when the spouse has received \$45,000. *House Bill 690 (passed)* raises the maximum benefit from \$45,000 to \$60,000 for a wholly dependent surviving spouse who becomes partly self-supporting after the death of a covered employee. At the time a spouse becomes partly self-supporting, the weekly benefit will be recalculated as if the spouse had been partly self-supporting at the time of the covered spouse's death. The total payments received under a combined period of total and partial dependency may not exceed \$60,000.

Unemployment Insurance

Unemployment Insurance Funding Task Force

Unemployment insurance benefits are funded through Maryland employers' State unemployment insurance taxes. An employer's tax rate is based on the employer's unemployment history and ranges from 0.3 to 7.5 percent of the first \$8,500 of an employee's wages. The taxes are deposited in the Unemployment Insurance Trust Fund and can be used only to pay benefits to eligible unemployed individuals.

The Office of Unemployment Insurance asserts that the current funding mechanism for the fund is not adequate. On September 30, 2002, the fund balance was within \$5 million of triggering a surcharge. A surcharge is an additional tax assessed on employers if the fund balance on September 30 is less than 4.7 percent of the prior year's total taxable wages. All employers are charged the same surcharge. The surcharge covers any shortfalls in the fund, including benefits that are paid but cannot be charged back to specific employers. These costs, or leakage, account for approximately 36 percent of all benefits paid.

Senate Bill 765 (passed) creates an 11-member Unemployment Insurance Funding Task Force to study (1) the fairness of the existing charging and taxation system under current Maryland Unemployment Insurance Law, taking into consideration the impact on employers; (2) the fairness of the existing eligibility and benefit provisions under current Maryland Unemployment Insurance Law; (3) the need for altering the current system of charging and taxation in order to maintain the fund at a level sufficient to ensure the viability of the fund; and (4) the impact of changes in the national and State economies and their relationship to changes in the fund. The task force shall make specific recommendations, including developing draft legislation, on what steps might be taken to ensure that payments into the fund remain adequate and equitable for both employees and employers.

Labor and Industry

Senate Bill 303/House Bill 651 (both passed) extend the sunset date of the Division of Labor and Industry and related boards, councils, and program, to July 1, 2014. The legislation also extends several provisions of law dealing with the payment of wages in Maryland and repeals duplicative or outdated law regarding unsafe scaffolding used in the construction, alteration, repair, or painting of a building; the regulation of power equipment training; employment agencies; and advisory committees. The legislation requires the Workers' Compensation Commission to pay the cost of administering and enforcing the laws regarding occupational safety and health, amusement ride safety, and elevator safety. In addition, the legislation makes changes in the law regarding nurse registries. For a more detailed discussion of this legislation, see the subpart "Legislation Related to Program Evaluation" within this Part H.

Senate Bill 543/House Bill 818 (both failed) would have established the Short-Term Disability for Working Families Act to provide paid family and medical leave to all working persons in the State. Participating employees would have had to pay a premium into a special fund from which an employee would have been eligible for up to 12 weeks of paid leave because of a short-term disability, a family member suffered from a short-term disability, or the employee had a newborn child, adopted a child, or had a foster child placed in the employee's home. The Workers' Compensation Commission would have administered the program that was modeled after programs in several other states, including California, New Jersey, and Rhode Island.

Two bills concerning employee wages failed. ***House Bill 507 (failed)*** would have prohibited employers from discriminating between employees in any occupation by paying a wage to employees of one race at a rate less than the rate paid to employees of a different race, if both employees work in the same establishment and perform work of comparable character or work on the same operation, in the same business, or of the same type. ***Senate Bill 250 (failed)*** would have authorized an employee to recover compensatory and punitive damages from an employer that violated the Equal Pay for Equal Work law. The Commissioner of Labor and Industry would have been permitted to assess a civil penalty of up to 10 percent of the amount of damages owed against the employer. The bill would have also created an Equal Pay Commission to study wage disparities throughout the State.

Senate Bill 124 (failed) would have prohibited a broadcast industry employment contract from containing a noncompete provision that restricted the right of an employee to seek or obtain employment with another employer in the broadcast industry after expiration or termination of the employment contract or employment relationship.

Alcoholic Beverages

Statewide Bills

Direct Wine Shipments – Sale of Out-of-State Wine

Senate Bill 514/House Bill 621 (both passed) require the Comptroller's Office to create and provide a list of wholesalers who are willing to participate in the handling of direct wine shipments. The bills require the list to be posted on the web site of the Comptroller's Office and to be provided for free on request. The list must include the name, contact person, and phone number of wholesalers participating in direct wine shipments. The bills also provide that a wholesaler or a retail dealer may impose a service charge to handle direct wine shipments.

Light Wine

Unless otherwise provided, the current maximum allowable percentage of alcohol by volume in the State is 14 percent. *House Bill 708 (passed)* increases this baseline percentage to 15.5 percent. The bill also increases from 14 to 22 percent the amount of alcohol by volume that defines a light wine in Baltimore, Carroll, Frederick, Garrett, and Talbot counties.

Beer and Wine Sales

Currently, only certain businesses may sell alcoholic beverages at retail for consumption off the premises. *Senate Bill 616/House Bill 990 (both failed)* would have loosened this restriction, allowing food stores, drugstores, supermarkets, gasoline service stations, store clubs, convenience stores, and other similar businesses to sell beer only or beer and light wine.

Video Lottery and Casino-Style Gaming – Minimum Drink Prices

To prevent facilities with slots or casino-style gaming from stimulating business by offering alcoholic beverages at a discounted price, *House Bill 1102 (failed)* would have required the alcoholic beverages licensing authority for a county in which the facilities are located to set minimum prices for alcoholic beverages. Licensees who sold alcoholic beverages below the minimum price would have been subject to license suspension or revocation. The bill would not have applied to alcoholic beverages sold at gaming events conducted by authorized nonprofit or fraternal organizations.

Local Bills

Allegheny County

License Fees: *House Bill 407 (passed)* increases by \$50 the annual license fee for various alcoholic beverages licenses. License fees range from \$125 for a Class A beer license to \$700 for a Class D beer, wine, and liquor license.

Anne Arundel County

Sales to Minors and Serving of Summonses: *Senate Bill 702/House Bill 1083 (both passed)* authorize the City of Annapolis by ordinance to establish that selling and providing alcoholic beverages to a minor is a municipal infraction. The bills also authorize the Annapolis Police Department to serve summonses for violations of alcoholic beverages laws.

Baltimore City

Licensees Near Churches and Schools: In certain legislative districts, a new license or removal of an existing license may not be granted to sell alcoholic beverages in any building located within 300 feet of the nearest point of the buildings of a church or school. *Senate Bill 532 (passed)* keeps the prohibition in place in the same geographic area, even though part of the area has been situated in a new legislative district as a result of the legislative redistricting ordered by the Maryland Court of Appeals on June 21, 2002.

Baltimore County

Towson Revitalization District: *Senate Bill 204 (passed)* authorizes the Board of License Commissioners to transfer into the Towson Revitalization District three licenses of any class of beer, wine, and liquor (on-sale) retail license. A Class A (off-sale) or Class C (club) license or any license that may not be transferred by law or local regulation is prohibited from being transferred to the Towson Revitalization District. The bill also requires the transferred license to have been issued before January 1, 2002, and in existence in election district 15 of Baltimore County on October 1, 2003.

Pikesville Revitalization Area and Pikesville Town Center: *Senate Bill 501 (passed)* repeals the September 30, 2004, termination for authorizing the Board of License Commissioners to issue up to ten Class B (SB) restaurant-service bar beer, wine, and liquor (on-sale) licenses in the Pikesville Revitalization Area or Pikesville Town Center.

Calvert County

Out-of-State Licenses: *House Bill 1044 (passed)* prohibits the issuance of a Class A or Class D beer, beer and light wine, or beer, wine, and liquor license, except by renewal, to a person holding an alcoholic beverages license in another state or Washington, DC.

Carroll County

License Fees: *House Bill 961 (passed)* increases, from \$50 to \$200, the license fee for the special Maryland Wine Festival license.

Tasting Privileges: *House Bill 960 (passed)* repeals the prohibition against beer tasting and wine tasting events from being held during the Maryland Wine Festival.

Servers in Restaurants: *House Bill 957 (passed)* repeals the restriction that anyone age 18 or older serving or selling alcoholic beverages in a restaurant must do so in connection with the serving and selling of a meal. The bill also authorizes a person of 18 or older to deliver alcoholic beverages in a restaurant.

Charles County

Out-of-State Licenses: *House Bill 1080 (passed)* prohibits the issuance of a Class A or Class D beer, beer and light wine, or beer, wine, and liquor license, except by renewal, to a person, corporation, or limited liability company holding an alcoholic beverages license in another state or Washington, DC.

Dorchester County

Inspectors and Staff: *Senate Bill 462/House Bill 939 (both passed)* authorize the Board of License Commissioners, with the approval of the county council, to employ an inspector, a recording secretary, and a general counsel who will be subject to the personnel policies and rules of the county.

Frederick County

License Commissioner Salaries and Subpoena Powers: *House Bill 179 (passed)* decreases the salary of the chairperson of the Board of License Commissioners from \$10,000 to \$7,000 and increases the salaries of the other board members from \$5,000 to \$6,500. The bill also authorizes the Board of License Commissioners to subpoena records pertaining to a licensed business or establishment.

Stadium License Privileges: To enable fans at Frederick Keys home baseball games to enjoy a wider variety of beverages while watching the game, *Senate Bill 356 (Ch. 24)* expands the privileges of the stadium beer on-sale alcoholic beverages license to include the sale of light wine. The Act also applies not only to baseball games but to any event held at the stadium of the Frederick Keys and increases the annual fee for the license from \$500 to \$2,000.

Beer Festival License: *House Bill 1141 (passed)* authorizes the Board of License Commissioners to issue a special beer festival license to the holder of a current retail alcoholic beverages license issued in Maryland, a Class 5 brewery license, or a Class 7 micro-brewery license. The board must approve one weekend annually for the special beer festival that does not

fall on the dates chosen for the Cumberland and Shenandoah Valley Wine Festival held in Washington County or the Maryland Wine Festival held in Carroll County.

Maryland Ensemble Theater: The Maryland Ensemble Theater sells alcoholic beverages at its events, but they are no longer held at the Cultural Arts Center. **House Bill 632 (passed)** renames the special Class C (Cultural Arts Center) on-sale beer and wine license to be the special Class C (Maryland Ensemble Theater) on-sale beer and wine license.

Garrett County

Subpoena Power: Senate Bill 276 (passed) grants the Board of License Commissioners the power to subpoena records pertaining to a licensed business or establishment.

Beer Tasting: Senate Bill 278 (passed) adds beer tasting privileges to the wine tasting license in Garrett County.

Sunday Sales: House Bill 220 (passed) authorizes sales of alcoholic beverages from 1 p.m. to 10 p.m. on Sundays in election districts 11 and 15 by holders of special two-day Class C licenses, special six-day Class C licenses, and special 12-day Class C licenses. The bill also clarifies that a holder of a Class B license or a Class C service club license that wants to provide Sunday sales must pay a one-time issuing fee of \$250 and an annual license fee of \$250.

Harford County

Deluxe Restaurant Licenses in Aberdeen: Senate Bill 577 (passed) authorizes the Board of Liquor Control to issue a maximum of two special seven-day Class BDR (deluxe restaurant) beer, wine, and liquor licenses within the corporate limits of Aberdeen.

Kent County

Special Maryland Wine License Privilege: Generally, restaurants may not sell alcoholic beverages for consumption away from the restaurant. **Senate Bill 486 (passed)** authorizes certain restaurants to sell bottled wine for off-sale consumption and exempts the sale of the bottled wine from counting against the minimum requirement that 60 percent of the average daily receipts of the Class B alcoholic beverages licensee be food sales.

Prince George's County

License Fees: House Bill 451 (passed) increases, from \$25 to \$50, the daily license fee for a special Class C beer license and a special Class C beer and wine license. **House Bill 459 (passed)** increases, from \$50 to \$150, the daily license fee for a special Class C beer, wine, and liquor license. **House Bill 456 (passed)** increases, from \$4,400 to \$6,750, the annual fee for a Class B – Education Conference Facility/Dining Service (Class B-ECF/DS) license.

Fines: *House Bill 458 (passed)* increases, from \$5,000 to \$12,500, the maximum fine that may be imposed by the Prince George’s County Board of License Commissioners on licensees for any violation of the alcoholic beverages law.

Alcoholic Beverages Inspectors: Currently, there are two alcoholic beverages inspectors in the county. *House Bill 455 (passed)* increases the number of full-time alcoholic beverages inspectors to three. The bill also provides that the additional full-time inspector is a deputy chief inspector.

Alcoholic Beverages District Conformity to Legislative Districts: *House Bill 460 (passed)* makes alcoholic beverages districts coterminous with the legislative districts contained in the current State of Maryland’s legislative districting plan.

St. Mary’s County

License Applications: *House Bill 740 (passed)* requires the Alcohol Beverage Board, before approving an application and issuing an alcoholic beverages license, to consider (1) the public need and desire for the license; (2) the number and location of existing licensees and the potential effect on existing licensees; (3) the potential commonality or uniqueness of the services and products offered by the applicant’s business; (4) the impact on the general health, safety, and welfare of the community, including issues relating to crime, traffic conditions, parking, or convenience; and (5) any other necessary factors, as determined by the board.

Out-of-State Licenses: *House Bill 1044 (passed)* prohibits the issuance of a Class A or Class D beer, beer and light wine, or beer, wine, and liquor license, except by renewal, to a person holding an alcoholic beverages license in another state or Washington, DC.

Exemption for Outdoor Motor Sports Facilities: *House Bill 352 (passed)* exempts outdoor motor sports facilities located in Budds Creek or Mechanicsville from the prohibition against individuals consuming alcoholic beverages at a licensed establishment where the alcoholic beverages were not sold.

Talbot County

Criminal History Records Check: *House Bill 567 (passed)* requires the Board of Liquor License Commissioners to conduct background checks on applicants for a new alcoholic beverages license or for a transfer of an existing alcoholic beverages license.

Washington County

Pouring License Fees: *House Bill 806 (passed)* increases by \$250 the annual license fee imposed by the Liquor Board for certain pouring licenses. Specifically, the beer license fee is increased to \$350, the beer and light wine license fee is increased to \$400, and the beer, light wine, and liquor license fee is increased to \$750.

Out-of-State Licenses: *House Bill 1088 (passed)* prohibits the issuance of a Class A or Class D beer, beer and light wine, or beer, wine, and liquor license, except by renewal, to a person, corporation, or limited liability company holding an alcoholic beverages license in another state or Washington, DC.

Wicomico County

Licenses, Sales, and Wine Festival: *Senate Bill 486/House Bill 126 (both passed)* make numerous changes to the alcoholic beverages law. The bills (1) increase, from \$1,925 to \$2,200, the license fee for a Class D tavern beer, wine, and liquor license and add Sunday sale privileges to the license; (2) repeal the eligibility requirement for a Class B – Conference Center to be located west of Maryland Route 13 and north of the city limits of Salisbury; and (3) repeal the prohibition on Sunday off-sale privileges for a Class B beer hotel and restaurant license, a Class B beer and light wine hotel and restaurant license, and a seven-day Class D beer and light wine license.

The bills also authorize the Board of License Commissioners to issue a special Wicomico County Wine Festival (WCWF) wine festival license for \$25 per day to a holder of an existing State retail alcoholic beverages license, a State Class 3 Winery license, or a State Class 4 Limited Winery license.

Worcester County

Sunday Sales: The time when a holder of an alcoholic beverages license may open for business on Sunday varies according to the license. *House Bill 146 (passed)* makes 9 a.m. the uniform starting time for all licenses. The bill changes the closing time on Sundays for Class C beer, wine, and liquor licenses from 1:00 a.m. Monday to 2:00 a.m. Monday. The bill also repeals the prohibition against the sale of liquor on Sundays by Class B beer, wine, and liquor seven-day licenses and Class D beer, wine, and liquor seven-day licenses.

Borrowing Limit: *House Bill 169 (passed)* increases, from \$1 million to \$3 million, the maximum aggregate amount of funds that may be borrowed by the Liquor Control Board.

License Fees: The county commissioners, unlike all other local governments in the State, set alcoholic beverages license fees. *House Bill 560 (failed)* would have repealed this power of the county commissioners and would have made the fees now in Article 2B of the Code effective until altered by the General Assembly. The bill also would have decreased, from 75 to 50 percent, the percentage of alcoholic beverages license fees generated by Class D beer, wine, and liquor licenses in a municipality that must be returned to the municipality.