

## Part C

# State Government

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### State Agencies, Offices, and Officials

#### Public Records

##### Permissible Denials

Under the Maryland Public Information Act, a custodian of a public record generally must permit inspection of the record within a reasonable time. However, certain types of public records and certain parts of public records can be exempt from inspection. For example, a custodian is authorized to deny inspection of the part of a public record that contains information disclosing or relating to a trade secret, confidential commercial information, or confidential financial information owned in whole or in part by the Maryland Technology Development Corporation.

*Senate Bill 487/House Bill 1283 (both passed)* expand the above category of permissible denials to include trade secret information, confidential commercial information, or confidential financial information owned in whole or in part by a public institution of higher education. However, to warrant protection, the information must be part of the institution's activities that promote the economic development of the State or increase the financial resources of the institution through arrangements with the private sector.

#### Veterans

##### Monuments

Even though hundreds of memorials in the State are dedicated to veterans, none of the memorials are dedicated solely to women service members. *Senate Bill 619/House Bill 523 (both passed)* create a task force to identify and recommend the funding, design, construction, and placement of a monument dedicated to women from Maryland who served in the uniformed forces of the United States of America.

## **POW/MIA Flag**

The National League of Families of American Prisoners and Missing in Southeast Asia created the POW/MIA flag, and it is the only flag, other than the United States flag, that has been flown over the White House. Since 1998 the POW/MIA flag has been required to be flown at numerous federal sites. *House Bill 50 (passed)* requires the POW/MIA flag to be flown on the State House grounds on certain days and grants authority to the State House Trust to decide where the POW/MIA flag will be flown on the State House grounds.

## **Councils and Commissions**

### **Maryland Security Council**

The functions of Maryland Security Council (MSC) are quite similar to the functions of two existing entities, the Maryland Emergency Management Advisory Council (MEMAC) and the Maryland Terrorism Forum. *Senate Bill 882 (passed)* abolishes MSC and requires MEMAC to submit an annual report to the Governor and the General Assembly on the council's activities and recommendations. MEMAC advises the Governor on all matters that relate to emergency management and is comprised of members appointed by the Governor representing volunteer fire and rescue companies; the manufacturing, utilities, and communications industries; and local governments.

### **Maryland Commission for Women**

*Senate Bill 257 (passed)* was introduced in part to address concerns about the ability the Maryland Commission for Women to take independent positions on legislation and to advocate on behalf of legislative priorities voted on by the participants. The bill makes various changes to the commission, including:

- requiring the executive director of the commission to be an employee of the Department of Human Resources;
- increasing the number of members from 24 to 25;
- altering the appointment process by requiring the Governor to appoint nine members and the President of the Senate and Speaker of the House each to appoint eight members;
- presuming the resignation of a commissioner who fails to attend at least 50 percent of the regularly scheduled meetings within a 12-month period;
- making the chair and vice chair positions elected from among the members of the commission; and
- requiring the commission to inform the Executive and Legislative branches of government on issues concerning women.

## The Office for Children, Youth, and Families

By law, the Office for Children, Youth, and Families (OCYF) is scheduled to terminate on June 30, 2005. As originally introduced *Senate Bill 222/House Bill 293 (both failed)* would have reorganized OCYF and created a Children’s Cabinet within the Governor’s Executive Council.

Since *Senate Bill 222/House Bill 293* failed, OCYF will terminate on June 30, 2005; however, *Senate Bill 759/House Bill 932 (both passed)* transfers the following programs from OCYF to the Maryland State Department of Education:

- the Home Visiting Consortium;
- Healthy Families Maryland; and
- the School-Based Health Care Initiative.

*House Bill 1342 (passed)* also transfers the Office of the independent Juvenile Justice Monitor from OCYF to the Office of the Attorney General. A more detailed discussion of these bills can be found under Part L – Education and Part M – Human Resources of this *90 Day Report*.

## State Lottery

### Voluntary Assignment of Lottery Prizes

Although approximately 20 other states allow lottery prizes to be assigned in some manner, Maryland law does not allow lottery prizes to be assignable, except under very limited circumstances. However, *Senate Bill 225/House Bill 678 (both passed)* authorize voluntary assignment of lottery prizes paid in installments if a series of conditions are met including:

- the assignment is in writing, is executed by the assignor, and by its terms is subject to the laws of the State of Maryland;
- the assignment contains an agreement to hold the State harmless;
- the assignor has five business days after signing the contract to cancel the assignment;
- a husband and wife holding a joint winning must both agree to the assignment; and
- a voluntary assignment contract must include an affidavit provided by the State Lottery Agency and completed by the assignee that includes information about the assignee.

## Disposition of State Lands

Due to concern over the existing process for the disposition of State-owned property, several bills were introduced in the 2005 session to address the disposition of State land. *Senate Bill 102 (passed)* proposes an amendment to the Constitution to prohibit the Board of Public Works from approving the sale, transfer, exchange, grant, or other permanent disposition of any State-owned outdoor recreation, open space, conservation, preservation, forest, or park land without the express approval of the General Assembly or of a committee designated by the General Assembly. The proposed amendment to the Constitution will be submitted to the voters at the next general election in November 2006.

*Senate Bill 306 (passed)* establishes additional conditions on the sale, transfer, exchange, or grant of any open space, rural legacy, public park land, recreational areas, wild land, open areas, heritage conservation areas, forest conservation areas, and green print areas. The bill requires specific steps to be taken before a sale, transfer, exchange, or grant of any of the specified State-owned property may be approved by the Board of Public Works.

A more detailed discussion of these bills can be found under Part K – Natural Resources of this *90 Day Report*.

## Miscellaneous

### Surplus State Personal Property

The Secretary of General Services has the authority to dispose of surplus State personal property in several ways such as trading it in, auctioning or selling it, or transferring it to a local jurisdiction or nonprofit organization. *Senate Bill 878 (passed)* expands the options of the Secretary to dispose of surplus State personal property by also allowing the property to be transferred to a public school system.

### State Use Industries

State Use Industries is an entity within the Department of Public Safety and Correctional Services that, among other things, provides meaningful work experiences for inmates and seeks to develop industries that provide full-time work experience or rehabilitation programs for eligible inmates. *Senate Bill 136 (passed)* changes the name of State Use Industries to Maryland Correctional Enterprises and changes the title of the top management official from General Manager to Chief Executive Officer.

## Elections

### Conduct of Elections

#### Early Voting

While at least 35 states have some type of early voting program, the high turnout during the 2004 presidential election resulted in long waits at the polls for voters on election day in many jurisdictions across the United States. Thus, a renewed push for early voting programs is evident among states, either to institute early voting, or to expand existing programs. In Maryland, the only form of “early voting” is voting by absentee ballot, an option not available to all voters. Under State law, to vote by absentee ballot, generally voters are required to provide a valid excuse as to why they cannot be present to vote at the polls on election day.

The General Assembly passed two measures during the 2005 session which significantly expand the availability of early voting to all voters in the State. *House Bill 622 (passed)* allows “no-excuse” absentee voting. *Senate Bill 478 (passed)* establishes early voting in at least three locations in each of the “big seven” large counties in the State and at least one location in all other counties during a five-day period from the Tuesday to the Saturday before an election. The bill requires the Governor to allocate the funds for implementing the bill beginning with the fiscal 2007 budget.

#### Voter Verification

The use of computerized voting systems, known as direct recording electronic systems (DREs), has gained considerably over the past several years since the controversial recount in Florida during the 2000 presidential election. Suspicions of possible or theoretical vote tampering on DREs have also grown considerably. In Maryland, a 2003 risk assessment commissioned by the Governor and a separate review by the Department of Legislative Services revealed several vulnerabilities in the State’s newly purchased DRE system. Several constituencies in the election and computer science communities have since voiced concern about the overall security of Maryland’s DRE system and have expressed the need for independent verification systems to ensure the accuracy of electronic voting records and the absence of manipulation by outside parties.

A voter verified paper audit trail (VVPAT), which requires a voter to review a printout before casting a final vote, is one method of independent verification of election results. *House Bill 479 (passed)* requires the State Administrator of Elections to study various independent verification systems, including VVPAT, during the 2005 municipal elections around the State. The bill establishes a nine-member advisory committee to assist and advise the administrator and allows the administrator to seek assistance from various interested communities in academia, computer industry professionals, and community activists.

### Nomination of Candidates

The Maryland Court of Appeals in *Green Party v. Maryland Board of Elections*, 377 Md. 127, 832 A.2d 214 (2003) invalidated a State law requiring a nonprincipal political party candidate to complete a nominating petition in order to be placed on the ballot. A nominating petition must be signed by at least 1 percent of the total number of registered voters (or a minimum of 250 voters) who are eligible to vote for the office for which the nomination by petition is sought. *House Bill 677 (failed)* would have made State election law consistent with this ruling by allowing smaller political parties in Maryland that do not hold a party primary to nominate candidates for inclusion on the primary ballot in accordance with their party rules without requiring a nominating petition.

### Provisional Ballots

*Senate Bill 287 (passed)*, titled “the Voters Rights Protection Act of 2005,” establishes procedures for counting provisional ballots and challenging a voter’s identity at the polls, and sets civil and criminal penalties for certain conduct at the polls. Local boards are required to count only candidates or questions on a provisional ballot that are applicable to the precinct in which a voter resides. If an individual’s identity is challenged at the polls on election day, the individual challenged must present one of the forms of identification listed below to establish the individual’s identity in order to vote by regular ballot:

- a voter registration card;
- a Social Security card;
- a valid Maryland driver’s license;
- a State or federal government issued identification card
- a photo identification issued by an employer; or
- a copy of a current bill, bank statement, government check, paycheck, or government that shows the name of the voter.

If the individual does not present one of the specified forms of identification, the individual may only vote by provisional ballot.

The bill also makes it a misdemeanor to influence a voter’s decision whether to go to the polls and vote through the use of threat, force, menace, intimidation, bribe, reward, or offer of reward. Civil penalties are established for attiring or equipping an individual in manner that creates the appearance that the individual is performing an official or governmental function in connection with an election.

### **Election Judges – Minors**

To conform to State child labor laws, *Senate Bill 700 (passed)* exempts a 17-year-old from the work hour restrictions under State law so that the minor may be appointed and serve as an election judge on election day only, with the consent of a parent or guardian.

### **Election of Circuit Court Judges**

After the presidential primary in March 2004, a suit was filed in St. Mary's County circuit court requesting an injunction to prevent the State Board of Elections (SBE) from certifying the primary results of circuit court judge candidates on the grounds that unaffiliated voters, who generally are not permitted to vote in party nominating elections, are unconstitutionally disenfranchised from participating in this initial selection process. The trial court and an appellate court found in favor of SBE, concluding that these election procedures did not violate State or federal equal protection requirements. *House Bill 276 (failed)* would have allowed circuit court judge candidates to run in a primary for unaffiliated voters and provided procedures for filling vacancies.

### **Procedural and Administrative Matters**

**State Board of Elections:** As the 2006 statewide elections approach, the composition of and potential vacancies on the five-member State Board of Elections was the subject of some concern during the 2005 legislative session. State law had granted the Governor exclusive power to appoint the board's members as long as three members were from the majority political party and two members were from the principal minority party (the majority party being deemed to be the party of the incumbent Governor). The board in turn, had the power to appoint the State Administrator of Elections.

The General Assembly overrode the Governor's veto of emergency legislation during the 2005 legislative session and enacted *Senate Bill 444 (Ch. 4)*, which limits the Governor's and the board's respective appointment powers by requiring the Governor to appoint an individual from recommendations submitted by the State central committee of the prospective appointee's political party. Also, the board must submit to the advice and consent of the Senate on the appointment of the State administrator. Further, the State administrator is subject to removal only subsequent to a valid vote by at least four duly confirmed members of a validly constituted full five-member board. The Act also allows the deputy administrator to serve as the administrator if the administrator has resigned, become disabled, or dies pending appointment of a successor.

**Voter Registration:** The federal Help America Vote Act of 2002 (HAVA) established uniform election standards for every state receiving funds under the Act. Maryland has received just over \$49.7 million in HAVA funds since fiscal 2003. One of the requirements under HAVA is a centralized voter registration database that must be controlled and maintained by the State and used as the official registration list for federal elections. SBE requested and was granted a waiver of the January 1, 2004, deadline for the centralized system until January 1, 2006.

**House Bill 723 (passed)** is enabling legislation authorizing SBE to implement a statewide voter registration system. Accordingly, the bill removes the authority of local boards of election to register voters and maintain their own county voter registry. The bill also repeals a separate provision of State law that prohibits a signature from an inactive voter to be counted as a valid signature on a petition a result of the 2003 Court of Appeals decision in the *Green Party* case (discussed above) which required SBE to count such signatures when determining whether a petition contains a sufficient number of valid signatures.

**House Bill 687 (passed)** allows an individual who will turn age 18 by the day of the next succeeding general or special election to be a voter registration volunteer. State law had required authorized voter registration volunteers to be of voting age.

## **Campaign Finance**

### **Attribution Rules**

State election law generally requires disclosure of campaign contributions by persons doing public business with the State. In the case of contributions made by an officer, director, or partner, that contribution must be reported and is treated as a contribution of (or attributed to) the business entity itself. **House Bill 178 (passed)** exempts application of these “attribution” rules to individuals serving as unpaid, volunteer officers of a nonprofit organization.

### **Public Financing of Campaigns**

Interest in public funding for legislative campaigns intensified subsequent to the February 2004 final report of the Commission to Study Public Funding of Campaigns in Maryland. The commission’s original findings and recommendations supported public funding for the statewide offices of Governor/Lt. Governor, Comptroller, Attorney General, and candidates for the General Assembly. **Senate Bill 725/House Bill 1031 (both failed)** would have established financing for General Assembly candidates only. Funding for the program and the newly established Election Financing Commission, would have come primarily from a \$5 tax check-off on Maryland State income tax returns.

## **Ethics**

### **Financial Disclosure Statements – Electronic Filing**

The Maryland Public Ethics Law requires the State Ethics Commission to develop procedures under which officials may file their annual financial disclosure statements electronically. **Senate Bill 150 (passed)** authorizes the commission to adopt regulations to modify the format of a disclosure statement that is filed electronically.

Annual financial disclosure is required for State elected officials, individuals holding State constitutional offices, and various classifications of individuals who are deemed “public officials” under the law (a majority of whom are included because they are State employees compensated at grade level 16 or above).



In February 2005, the Ethics Commission implemented a pilot program of on-line filing for the disclosure statements, applicable to calendar 2004, that are due by April 30, 2005. The format used in the pilot requires filers to report financial information (e.g., dollar amounts or numbers of stock shares) in ranges by using drop-down boxes as opposed to entering exact values. This new format will be validated in the regulations adopted under *Senate Bill 150*. The Ethics Commission believes that use of electronic filing and the new format will simplify financial disclosure and result in more accurate reports.

Electronic filing of financial disclosure statements is discretionary. An official may continue to file the form as a paper document.

### **Washington Suburban Sanitary Commission**

*House Bill 600 (failed)* would have made a variety of changes to ethics provisions relating to the Washington Suburban Sanitary Commission (WSSC). In 2003, WSSC adopted regulations for a Code of Ethics, including standards for conflicts of interest, financial disclosure, lobbying disclosure, and ethics in public contracting. The regulations established an independent Board of Ethics to assist the agency in maintaining these ethical standards.

The bill would have altered provisions under which applicants for appointment or reappointment to WSSC file financial disclosures and are interviewed to determine whether an applicant has possible conflicts of interest. *House Bill 600* also would have authorized the WSSC Board of Ethics to administer oaths and seek judicial enforcement of its orders and would have provided for judicial review of a final order of the board and for a stay of orders pending judicial review. The bill would have explicitly prohibited WSSC commissioners, employees, contractors, and subcontractors from violating any provision of the Maryland Public Ethics Law or ethics regulations of WSSC regarding conflicts of interest, financial disclosure, lobbying, and ethics in public contracting. Finally, the bill would have empowered a court to enforce compliance with WSSC ethics regulations and Board of Ethics orders, and impose a fine of up to \$5,000 for violators.

### **Advisory Governmental Bodies**

Advisory governmental bodies are those that do not exercise the sovereign power of the State but are often influential in the development of public policy on a wide variety of issues. Currently, all members of State boards and commissions are included as public officials, and therefore subject to a variety of restrictions and requirements under the Ethics Law. Some are exempted, however, from annual financial disclosure requirements by the Ethics Commission. Under *House Bill 790 (failed)*, a person serving on an advisory governmental body would not have been classified as a “public official” under the Maryland Public Ethics Law. The State Ethics Commission would have been authorized to override this provision on a case-by-case basis, however.

Additionally, under current law, a regulated lobbyist may not serve as an appointed member of an advisory governmental body, unless the group is of limited duration, such as a task

force. **House Bill 790** also would have allowed a regulated lobbyist to serve on a State advisory body of any duration.

## Procurement

After being confronted with a relatively large number of procurement proposals in the 2004 session, the General Assembly considered a rather modest number of bills in this area in the 2005 session.

### Procurement Preference Programs

State law authorizes procurement preferences for small businesses, minority business enterprises, and products made from recycled materials. **House Bill 346 (passed)** provides for a price preference of up to 5 percent for the use of environmentally preferable products in a procurement contract. Environmentally preferable products are those designed and manufactured to facilitate an environmentally sound disposal (*e.g.*, recycling) process. The bill is identical to House Bill 811 of 2004 which passed the General Assembly but was vetoed by the Governor.

**Senate Bill 319/House Bill 232 (both passed)** establish the Task Force to Study Assistance to Disabled Veterans Establishing Small Businesses. The task force must identify the number of disabled State veterans who would benefit from State-awarded contracts for newly established small businesses and identify existing laws and programs that currently aid disabled veterans.

### Exemptions from the State Procurement Law

Chapter 469 of 2004 required the Department of Legislative Services (DLS) to study exemptions from the State procurement laws. In *Review of Maryland Procurement Law Exemptions*, DLS found that of the 28 entities surveyed, only 10 had formal written procurement policies. The results of the study prompted the introduction of **House Bill 109 (passed)**, which requires exempt entities to establish procurement policies and guidelines which are to be submitted annually to either the Board of Public Works or the governing body of the unit.

While the Maryland Environmental Service (MES) has been exempt from most provisions of the State procurement law since 1986, **House Bill 1088 (passed)** clearly defines the procurement authority of MES for the use of competitive sealed bids and proposals, sole source procurements, intergovernmental purchasing, and small procurements. The bill also increases the small procurement threshold from \$10,000 to \$25,000 for consistency with general State policy and authorizes MES to adopt a dispute resolution process for disputes between it and its contractors.

**Senate Bill 445 (passed)** expands the procurement exemption of the Maryland Public Broadcasting Commission (MPBC). MPBC has been exempt from the State procurement law for the purchase of the services of artists for educational and cultural television production.

MPBC had been using this exemption for other non-television media production. The exemption granted in the bill allows current MPBC practice to conform to State law.

### **Environmental Procurement Policy**

*Senate Bill 92 (passed)* authorizes a State agency to provide a justification for the use of high performance or “green building” design in the planning for a capital project. Green building design is a rating system that measures the level of environmental benefit provided by the design of a facility. Green building elements, such as natural lighting, can contribute to improvements in employee health and productivity. Green building design carries a cost premium of 1 to 2 percent of the project cost, but may save considerably more over the life cycle of the facility.

### **Miscellaneous Procurement Provisions**

**Debarment:** A person may be debarred from entering into a State contract on several grounds, including conviction for a variety of specified offenses, and an admission in writing or under oath of an act that constitutes grounds for conviction of certain offenses, including any act designed to evade or defeat certain purposes of the procurement law. *Senate Bill 234/House Bill 262 (both passed)* provide that a person’s debarment under the federal acquisition regulations is grounds for debarment under the State procurement law. Under the legislation, the State debarment terminates automatically if the debarred person provides the Board of Public Works legally sufficient documentation that the federal debarment has been reversed or rendered void.

**Payment and Performance Security:** *Senate Bill 324 (passed)* requires contractors to provide payment and performance security for State construction contracts over \$200,000 instead of \$100,000. A State procurement unit also may require contractors to provide a performance bond or other security on supplies, services, or construction-related services contract over \$200,000. Payment security bonds cover risks to a subcontractor associated with a prime contractor refusing payment to the subcontractor. Payment security must equal at least 50 percent of the total value of the contract. Performance security bonds cover the risk to awarding units associated with nonperformance by a prime contractor. Performance security is defined as an amount that the public body deems adequate for its protections.

**eMaryland Marketplace:** Units of State government have been required to publish notice of invitations for bids, requests for proposals, and the award of certain contracts in the *Contract Weekly* and *Contract Weekly Online*. eMaryland Marketplace (eMM) has been an optional system for advertising and bidding on State contracts which has been traditionally funded by subscription revenues. Chapter 515 of 2004 phases in a requirement to publish the information only on eMM on and after July 1, 2006. From July 1, 2005 until July 1, 2006, units are required to publish the information in the *Contract Weekly* and eMM. Chapter 515 prohibits units from charging a fee to access information on eMM and instead requires agencies to deduct and retain a fee, established annually by the Department of Budget and Management (DBM) by regulation, from the procurement contract price.

In the 2005 session, DBM proposed establishing a different cost structure to fund eMM and sought \$1.4 million in general funds in the Fiscal 2006 Budget to provide agencies with upfront funding for these costs. Additionally, legislation was introduced to alter the fee requirements of Chapter 515. *House Bill 498 (passed)* repeals the requirement that agencies deduct and retain a fee from the winning contract and instead authorizes DBM to establish fees for the use of eMM by an entity that publishes various bidding and contract notices. Since the General Assembly cut the requested upfront funding in the Fiscal 2006 Budget, the effective date for *House Bill 498* is delayed until July 1, 2006. As a result, in the interim period, DBM is expected to implement a fee system to fund eMM service.

***International Trade Agreements:*** Questions have been raised whether the consent given by the Governor in 2003 for the State to continue to be bound by the Agreement on Government Procurement (GPA), a measure designed to ensure that government procurement does not favor domestic products or suppliers or discriminate against foreign products or suppliers, renders certain State procurement laws violative of the Central American Free Trade Agreement (CAFTA), which applies the provisions of the North American Free Trade Agreement (NAFTA) to five Central American countries and the Dominican Republic. Although the government procurement restrictions in NAFTA apply only to the federal government, CAFTA applies these restrictive procurement rules to states that agree to be bound under the agreement.

*Senate Bill 401 (Ch. 2)/House Bill 514 (Ch. 3)* provide that for the State to be bound under any international trade agreements, the agreement must be submitted to the General Assembly for approval. These bills were vetoed by the Governor and before the end of the 2005 session, the vetoes were overridden by the General Assembly. Prior to the enactments, Maryland procurement law provisions addressing small business, recycled products preferences, worker safety, "Buy American" Steel, and prevailing wages could be deemed at odds with CAFTA and thereby subject the United States and State businesses to sanctions by the World Trade Organization, which prosecutes violations of certain trade agreements. Because of these concerns, a group of seven state governors have withdrawn their consent for their states to be bound by CAFTA; however, 21 states remain bound by CAFTA.

## **Regulations and Procedures**

### **Open Meetings Act**

Senate Bill 87/House Bill 73 of the 2004 regular session (became Chapters 1 and 6 of the 2004 special session) were vetoed by the Governor during the 2004 interim. The Governor's veto message indicated that the bills could result in an increase in litigation, which would require local boards of education and county and municipal governments to devote staff time and money for litigation expenses to defend against complaints. The message concluded that at a time of limited resources it would be inappropriate to impose these added litigation costs on local public bodies. The General Assembly overrode the veto during the 2004 special session.

The Acts authorize any person to file a petition with a circuit court to determine the applicability of open session requirements of the State's Open Meetings Act to a session of a

public body, require a public body to comply with these provisions of law, or void a public body's action. Previously, a person could only file a petition if the person was adversely affected by a public body's failure to comply with the open session requirements of the Open Meetings Act.

*House Bill 295 (passed)* requires the State Open Meetings Law Compliance Board to study the use of the “executive function” exclusion under the Open Meetings Act. The Open Meetings Act requires a public body to meet in open session. However, an exception is made when a public body meets to carry out an executive function, which is statutorily defined as the administration of a law of the State, a law of a political subdivision of the State, or a rule, regulation, or bylaw of a public body. As part of the study, the board will (1) consider reliance on and inappropriate use of the executive function; (2) consult with appropriate organizations in connection with the use of the executive function, including municipal, county, and press associations; (3) consider the benefits of retaining or restricting use of the executive function; and (4) develop recommendations for modifications of the Open Meetings Act relating to the executive function. The bill also requires the board to report to the House Health and Government Operations Committee and the Senate Education, Health, and Environmental Affairs Committee on the results of its study and authorizes the report to contain proposed legislation.

## Publication of Documents

The General Assembly passed several departmental bills concerning the publication of documents during the 2005 session. *Senate Bill 186 (passed)* requires a State unit that enters into an international or interstate agreement or compact to file a copy of the agreement or compact with the Division of State Documents (DSD) in the Office of the Secretary of State. Further, the bill requires that DSD publish the agreement or document in the *Maryland Register*. The bill authorizes DSD to deliver a copy of the agreement or compact to the State Archives and provides that any agreement or compact within the Annotated Code is exempt from the requirement to file a copy of the agreement with DSD.

*House Bill 1327 (passed)* changes certain aspects of the process whereby federal statutes and regulations and other documents are incorporated by reference into the Code of Maryland Regulations (COMAR). The bill provides that federal laws and regulations may be incorporated prospectively; in other words, all future changes to the federal statute or regulation will be incorporated into COMAR without any future action required. However, outside sources, such as the International Building Code and Fire Codes, may not be incorporated prospectively, and any changes to these documents will have to be reincorporated into COMAR through the normal process for promulgating regulations. The bill specifies that the Annotated Code of Maryland and the Session Laws need not be incorporated by reference.

## Regulations

*Senate Bill 309/House Bill 429* of the 2004 regular session (became *Chapter 2* and *Chapter 8* 8 of the 2004 special session) were vetoed by the Governor during the 2004 interim.

The Governor's veto message concluded that the bills significantly alter the State's regulatory review process in several ways that potentially undermine the authority of the Executive Branch particularly relating to the approval of emergency regulations. The General Assembly overrode the veto during the 2004 special session.

The Acts provide that the Joint Committee on Administrative, Executive, and Legislative Review may not approve the emergency adoption of a proposed regulation earlier than 10 days after the committee's receipt of the regulation unless the Governor declares that immediate adoption is necessary to protect the public health or safety. The Acts also require the General Assembly's web site to include certain information about emergency regulations received by the committee. In addition, a member of the public may register a request with the Department of Legislative Services to receive information about emergency regulations by U.S. mail or electronic mail. Finally, the Acts authorize the committee to exercise any power it has over emergency or proposed regulations over specific, distinct, and severable provisions of an emergency or proposed regulation.

## **Personnel**

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

#### **Employee Compensation**

The regular employee compensation package funded for fiscal 2006 reflects both enhancements and limitations compared to fiscal 2005. Enhancements include a \$400 State match for employee contributions to individual deferred compensation plans. Salary increments will be awarded for employees who are performing at or above established standards for their classification; a 1.5 percent general salary increase is also provided. Limitations in the benefits package include increasing copayments for prescriptions, establishing a \$700 annual cap for prescription spending for each family, requiring two copayments instead of one copayment for 90 days worth of drugs, and making other changes to the prescription plan. For employees and retirees choosing point-of-service health insurance coverage, their share of the monthly cost of that coverage will increase from 15 to 17 percent.

#### **Position Cap**

The General Assembly abolished 301 positions in individual agency budgets and required the abolition of 179 additional positions through budget language capping the number of Executive Branch personnel. These actions imposed a cap of 52,686 full-time equivalents (FTEs) in positions other than those in higher education. The funds associated with these abolitions were restricted and transferred to the State subsidy for employee and retiree health insurance. Specific position abolitions taken during the 2005 session affect a number of different agencies. The General Assembly abolished positions in the Department of Human Resources (48), Department of Juvenile Services (31), legal (31, primarily in the Office of the Public Defender), executive and administrative control (29, primarily in the Office for Children, Youth,

and Families), Public Safety and Correctional Services (26), and the Maryland Department of Transportation (19).

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

## **Employee Grievances**

Generally, an employee in the State Personnel Management System (SPMS) may file a grievance about the interpretation and application of a personnel policy (or any policy or regulation under management’s control) with the grievant’s appointing authority.

An SPMS employee has the option of following a three-step process in resolving a grievance. Step one is the initiation of the proceeding, in which the employee files a written grievance with the appointing authority and provides a copy of the grievance to the employee’s supervisor. In step two, the decision of the appointing authority may be appealed to the head of the principal unit that employs the employee. If necessary, in step three the grievant may appeal a decision to the Secretary of Budget and Management. *House Bill 923 (passed)* adds an additional provision to step three. Upon an appeal of a grievance decision, the Secretary of Budget and Management must determine whether the employing agency will accept a binding settlement upon an appeal of a grievance decision.

If a settlement that is agreeable to all parties is not reached within 30 days, the Secretary must refer the grievance to the Office of Administrative Hearings (OAH) for a final administrative decision. *House Bill 922 (passed)* provides that, beginning on July 1, 2006, any costs incurred by OAH associated with a grievance appeal are to be paid by the principal unit of State government that employs the grievant. Under current law, these costs are paid by the Department of Budget and Management.

## **Disciplinary Actions**

The Maryland Department of Transportation (MDOT) has a separate personnel system that was established before SPMS. *Senate Bill 534/House Bill 750 (both passed)* alter the disciplinary action process MDOT must follow when an employee is accused of misconduct. The new process tracks the process for employees in SPMS. Specifically, the Secretary of Transportation must adopt regulations that provide that MDOT must (1) investigate the alleged misconduct; (2) meet with the employee; (3) consider any mitigating circumstances; (4) determine the appropriate disciplinary action, if needed, to be imposed; and (5) give the employee written notice of the disciplinary action to be taken and the employee’s appeal rights. The regulations must also provide for a 30-day limit under which MDOT may suspend an employee without pay pending the filing of charges for removal with the Secretary and provide authorization for an agreement with an employee to hold in abeyance a disciplinary action for a period not to exceed 18 months to allow the employee to improve conduct or performance.

## **Military Administrative Leave**

Chapter 389 of 2003 allowed State employees who serve in the military to receive paid leave while on active duty; the leave is limited to the difference between a member's federal active duty base salary and State base salary or direct wages and may not exceed an employee's State salary. Eligible employees must elect to use the military administrative leave authorized by Chapter 389 or the fully paid military leave (up to 15 days) allowed under a separate provision of law. Chapter 389 took effect on July 1, 2003, and was extended until June 30, 2005, by Chapter 122 of 2004.

*Senate Bill 31/House Bill 22 (both passed)* extend the June 30, 2005, termination date to June 30, 2006, for military administrative leave granted to a regular employee of any branch of State government who is on, or called to, active duty on or after July 1, 2003.

## **Consolidation of Natural Resources Police and State Forest and Park Rangers**

In December 2003, the Governor's Commission on Structure and Efficiency of State Government (the Mandel Commission) recommended that the law enforcement functions of the two police forces of the Department of Natural Resources – the State Forest and Park Service (SFPS) rangers and the Natural Resources Police (NRP) – be consolidated. On March 25, 2004, the State signed a Memorandum of Understanding with the State Law Enforcement Officers' Labor Alliance to merge the SFPS rangers into NRP and reclassify the rangers in corresponding NRP classifications.

*House Bill 1353 (passed)* is an emergency bill which mandates that in the consolidation of NRP and the SFPS rangers, all employees commissioned as law enforcement officers will retain their commission and certification for the duration of their employment with DNR and the classification title of law enforcement positions at or above the rank of sergeant will reflect the status of the position as a law enforcement officer. The bill also clarifies the eligibility for promotional opportunities for SFPS rangers.

In a related bill, *Senate Bill 380 (passed)* exempts a SFPS ranger who as of March 24, 2004, was appointed as an NRP officer on or after July 1, 2004, from the statutory probationary status required otherwise for NRP officers.

For a more detailed discussion of legislation related to the consolidation of NRP and SFPS rangers, see Part K – Natural Resources, Environment, and Agriculture of this *90 Day Report*.



## Pensions and Retirement

### Reemployment of Retirees

The major focus of the 2005 session with respect to State pension and retirement systems was the reemployment of retirees receiving a service retirement allowance or ordinary disability allowance and how the reemployment earnings limitation would be applied to these individuals. During the 2004 session, legislation that would have extended the sunset date for similar provisions of law that were first passed in 1999 and 2001 failed and those provisions abrogated.

### Teachers and Principals

**Overview:** *Senate Bill 663/House Bill 1347 (both passed)* reenact provisions of law removing the reemployment earnings limitation for retired teachers and principals who return to work in the same school system from which they retired under limited circumstances.

**School and Subject Matter Placement/Time Limitations:** *Senate Bill 663/House Bill 1347* allow retirees of the Teachers' Retirement System or Teachers' Pension System to return to work as teachers, teacher mentors, and principals without an earnings limitation on their pension if they return to work in a school that is:

- not meeting Adequate Yearly Progress under No Child Left Behind;
- a Title 1 school; or
- an alternative education program for adjudicated youths or students expelled or suspended from a public school.

To be exempt from the earnings limitation, a retired teacher who returns to work in one of these schools is required to teach:

- in an area of critical shortage which is determined each year by the Maryland State Department of Education (MSDE) under a statutorily required annual staffing report;
- special education; or
- a class for students with limited English proficiency.

The bills include a provision allowing superintendents of local school systems some flexibility to rehire between 3 and 10 retired teachers (depending on the size of the county) in a disadvantaged school for positions that do not meet the subject matter criteria provided for in the bills. *Senate Bill 663/House Bill 1347* also require a break in service of 45 days between the time of retirement and the date when an individual is rehired. Once rehired, a retired teacher or principal may not continue to be reemployed at a school after that school makes adequate yearly progress for four consecutive years.

**Offsets and Reimbursements:** If a teacher or principal is hired by a local school system and does not satisfy the school and subject matter requirements provided for in the bills, *Senate Bill 663/House Bill 1347* require the local school system to reimburse the State Retirement and Pension System the amount by which the rehired retiree's benefit would have been reduced under the earnings limitation.

**Reporting:** The bills require superintendents of local school systems to report detailed hiring and reemployment information to MSDE on an annual basis. MSDE is then required to file an annual report with the Joint Committee on Pensions. The State Retirement Agency is also required to submit an annual report to the joint committee that lists any reimbursements that were made in the previous year by local school systems for rehiring a retired teacher or principal who did not satisfy the requirements of the bills.

### **Health Care Practitioners**

While *Senate Bill 663/House Bill 1347* were the most comprehensive reemployment bills passed this session, *Senate Bill 520/House Bill 758 (both passed)* exempt a retiree of the Employees' Pension System or Employees' Retirement System from the reemployment earnings limitation if the retiree is reemployed as a health care practitioner in a Department of Health and Mental Hygiene facility. These bills reenact an exemption that was first passed during the 2001 session and expired in 2004. The bills limit the exemption to a period of four years.

### **Ordinary Disability Retirees**

*Senate Bill 533 (passed)* eliminates the earnings limitation offset for ordinary disability retirees of the State Retirement and Pension System if the retiree is employed after retirement by an employer other than a participating governmental unit of the State. *House Bill 10 (passed)* excludes ordinary disability retirees of the State Police Retirement System and the Law Enforcement Officers' Pension System (LEOPS) from the current employment restrictions and earnings limitations placed on disability retirees of these systems, unless they are reemployed by the State as law enforcement officers.

### **Joint Committee on Pensions**

Each year, the Joint Committee on Pensions introduces pension legislation at the request of the State Retirement and Pension System and on its own initiative. In the 2005 session, six bills introduced by the joint committee were passed.

Retirees of the State Pension and Retirement System cannot receive another pension allowance from another pension or retirement system supported wholly or in part by the State. *Senate Bill 345 (passed)* allows a retiree of the State Police Retirement System to receive a benefit from the Legislative Pension System.

*Senate Bill 370 (passed)* requires any local jurisdiction that establishes a pension plan after July 1, 2005, to adhere to the board governance provisions of the Uniform Management of Public Employee Retirement Systems Act (UMPERSA). The bill also requires local

jurisdictions with existing pension plans to certify to the Joint Committee on Pensions the extent to which the governance of these plans adhere to UMPERSA.

*Senate Bill 422 (passed)* allows an individual who is promoted out of the Correctional Officers Retirement System (CORS) into Employees Pension System (EPS) to combine eligibility service in CORS and EPS for the purposes of applying for an ordinary disability. A member of EPS must have five years eligibility service to apply for an ordinary disability and *Senate Bill 422* allows a member to count years in CORS plus years in EPS towards that five-year requirement.

*Senate Bill 583 (passed)* amends Chapter 302 of 2004 which authorized the Secretary of Budget and Management to establish a Special Pay Plan for State employees under § 401(a) of the Internal Revenue Code. The bill extends the effective date of Chapter 302 to July 1, 2006, and requires the Maryland Supplemental Retirement Plan Board to study and report on various implementation issues.

Recently, the Internal Revenue Service (IRS) finalized regulations that provide that a plan cannot provide a 100 percent survivor benefit to an employee's nonspouse beneficiary under a joint and survivor annuity if the beneficiary is more than 10 years younger than the employee. *Senate Bill 664 (passed)* alters the survivor options available in the State Retirement and Pension System to comply with the new IRS regulations.

For the second year, in an attempt to reduce the complexity of the State's pension law, the General Assembly passed a Code simplification bill for the State Retirement and Pension System. *Senate Bill 584 (passed)*:

- alters the payment of benefits following the death of a retiree or beneficiary to eliminate prorated payments of a monthly allowance;
- removes obsolete and antiquated provisions with respect to the purchase of service credit and clarifies that only a member actively participating in a system is entitled to purchase service credit;
- standardizes the termination of membership provisions in each system (with the exception of the Teachers' Retirement System and the Judges' Retirement System);
- clarifies that a member of the Employees' Pension System, Teachers' Pension System, or LEOPS may not earn more than one year of service credit within a calendar year;
- clarifies that at the time of retirement, if a member of the State systems is not married, the member may either elect the basic service retirement allowance or select one of the optional forms of retirement, designating any individual as the member's beneficiary;
- provides that a member who terminates employment and then applies for retirement within 30 days after separation from employment is permitted to retain unused sick leave for purposes of calculating the member's retirement benefit;

- amends the LEOPS line of duty death benefit to include the return of the deceased member's accumulated contributions to the member's designated beneficiary or member's estate;
- provides that eligible participating governmental units may only join the State Retirement and Pension System as of July 1, the start of a new fiscal year; and
- provides that for an individual who retires from an employees' or teachers' system after January 1 of any year, the period during which the retiree is subject to an earnings limitation (if not otherwise exempt from the limitation) is adjusted to nine full calendar years following the retirement date.

### **Retiree Health Care**

*Senate Bill 305 (passed)* establishes a Task Force to Study Retiree Health Care Funding Options. Beginning in 2006, the Governmental Accounting Standards Board (GASB) will require the State to include liabilities associated with retiree health care on the State's financial statement. The Task Force to Study Retiree Health Care Funding Options is required to commission an actuarial valuation of retiree health care liabilities in accordance with GASB standards and to develop options for addressing the unfunded liabilities. The report of the task force is due before December 31, 2005. It is estimated that currently, retiree health care liabilities for the State are as much as \$6 billion.

### **LEOPS Membership**

Two additional law enforcement groups were added to LEOPS in the 2005 session. *Senate Bill 510/House Bill 949 (both passed)* add to LEOPS civilian pilots of the Department of State Police who operate aircraft for the State Emergency Medical System. *Senate Bill 930/House Bill 1500 (both passed)* add to LEOPS members of the Maryland Transit Administration Police Force.

### **“DROP” Benefits**

During the 2005 session two bills were passed that allow certain members of SPRS or LEOPS to participate in the Deferred Retirement Option Program (DROP), who previously were not eligible. *House Bill 47 (passed)* provides that LEOPS members who, on July 1, 2000, had more than 30 years of service or who could not participate in DROP for five full years may participate, prospectively, in DROP for four years. *House Bill 760 (passed)* allows SPRS members who, on July 1, 1999, had more than 28 years of service or who could not participate in DROP for four full years to participate, prospectively or retroactively, in DROP for three years. In addition, *House Bill 760* provides that a member of LEOPS who, on July 1, 2000, had more than 30 years of service or who could not participate in DROP for five full years may participate, retroactively, in DROP for four years.

## Miscellaneous Pension Bills

*Senate Bill 514/House Bill 1285 (both passed)* allow individuals whose employment status was converted from “exempt” to “nonexempt” pursuant to regulations issued by the U. S. Department of Labor under the Fair Labor Standards Act, to remain in the Optional Retirement Program.

*House Bill 783 (passed)* transfers the liabilities and assets from the Local Fire and Police System (LFPS) to EPS that were accrued on or before June 30, 2005, for retirees, vested members, and surviving beneficiaries of governmental units that participated in LFPS and withdrew from that system on or before December 31, 2004. Following the transfer of liabilities and assets, these individuals will become retirees, vested members, and surviving beneficiaries of EPS and will continue to receive benefits equal to what they had been receiving in LFPS. If a current governmental unit participating in LFPS chooses to withdraw on or after July 1, 2005, all active members must withdraw and follow the participating governmental unit. The retirees, vested members, and surviving beneficiaries of the withdrawing participating governmental unit in the future will move directly to EPS.

*Senate Bill 665/House Bill 920 (both passed)* allow an individual of EPS to transfer years of service accumulated in CORS before December 31, 2005, to EPS if the individual (1) was employed as a correctional officer and joined CORS on or before December 1, 1983; (2) was employed as a Correctional Case Management Specialist and joined EPS on or before June 1, 1997; (3) is eligible to receive a vested retirement allowance from CORS as of December 1, 2006; and (4) as of January 1, 2005 has not transferred the creditable service accrued in CORS to EPS.

## Interim Study

The Senate Budget and Taxation Committee and the House Appropriations Committee referred *Senate Bill 623/House Bill 1049 (both failed)* and *Senate Bill 466 (failed)* to summer study by the Joint Committee on Pensions. These bills would have provided enhancements for members of the employees’ and teachers’ systems. The joint committee will be studying pension benefit enhancements for these individuals in addition to various funding methods for these enhancements. In addition, language was included in the Budget Reconciliation and Financing Act of 2005, *House Bill 147 (passed)*, that states it is the intent of the General Assembly to provide an enhancement to the retirement benefits of public school teachers in order to assist the State and local governments in achieving the requirements for a highly qualified teacher in every classroom under No Child Left Behind. *House Bill 147* also provides that it is the intent of the General Assembly to provide an enhancement to the retirement benefits of State employees in order to maintain a high quality workforce.

## General Assembly

### Legislative Authority

Initiatives in the 2005 session asserted greater authority for the Legislative Branch in the areas of international trade agreements, the disposition of protected lands, and the appointment of the State Administrator of Elections.

### International Trade Agreements

*Senate Bill 401/House Bill 514 (Ch. 2/Ch. 3)* prohibit the Governor or any other State official from binding the State to the government procurement rules of an international trade agreement, unless the General Assembly gives its explicit consent. The Acts also nullify the consent previously given by the Governor as to previous international trade agreements.

In 1993, an executive order of the Governor brought Maryland into the Agreement on Government Procurement (GPA) negotiated by the U.S. Trade Representative. The GPA is designed to ensure that domestic products are not favored over foreign products and suppliers. By 2003, new international trade agreements relating to governmental procurement were being negotiated by the U.S. Trade Representative, and the Governor again included Maryland in the agreement.

The Governor vetoed *Senate Bill 401/House Bill 514* during the session, and the General Assembly overrode the two vetoes.

These Acts are discussed more fully in the subpart “Procurement” within this Part C of the *90 Day Report*.

### Disposition of Protected Lands

In response to a recent initiative of the Executive Branch to identify underutilized or surplus State-owned property that could be sold, *Senate Bill 102 (passed)* is a constitutional amendment that would prohibit the Board of Public Works from approving the disposition of State outdoor recreation, open space, conservation, preservation, forest, or park land without the express approval of the General Assembly. The issue became a matter of intense public debate in September 2004 when the Administration proposed that an 836-acre tract of forested land in St. Mary’s County (the Salem Tract) be sold to a developer. Under the bill, the General Assembly may designate a committee to grant the required approval to the Board of Public Works. The constitutional amendment will be on the ballot in the November 2006 election for approval or rejection by the voters.

Two related statutory proposals, *Senate Bill 306 (passed)/House Bill 4 (failed)*, were amended during the legislative process to become identical bills. The measures place various conditions and restrictions on the disposition of protected lands such as open space, rural legacy, public park land, recreational areas, wildland, open areas, heritage conservation areas, forest conservation areas, and green print areas. The bills require prior notice of proposed dispositions

to be sent to the Senate Budget and Taxation Committee and the House Committee on Appropriations. The Legislative Policy Committee is authorized to review the proposed disposition of these lands and may approve the disposition or refer the matter to the full General Assembly. If referred to the General Assembly, the Board of Public Works cannot approve the disposition unless it is endorsed through the passage of legislation at the next legislative session.

A more comprehensive discussion of each of these bills can be found in Part K – Natural Resources, Environment, and Agriculture of this *90 Day Report*.

### **State Administrator of Elections**

*Senate Bill 444 (Ch. 4)/House Bill 675 (passed)*, which make a variety of changes to the appointment procedures for members of the State Election Board, also provide that the appointment of the State Administrator of Elections will be subject to the advice and consent of the Senate. *Senate Bill 444* was vetoed by the Governor, and the veto was overridden. The bills are discussed more fully in the subpart “Elections” within this Part C of the *90 Day Report*.

### **Legislative Facilities**

The Maryland Consolidated Capital Bond Loan of 2005, better known as the Capital Budget, *House Bill 340 (passed)*, authorizes \$3,400,000 for audio-visual equipment in the expansion of the Lowe House Office Building. The Capital Budget also directs that at least 250 of the spaces in a parking facility to be built in the legislative complex will be available to employees of the General Assembly. The provision further requires that parking spaces assigned to legislative staff in the “A” garage, the “B” parking lot, and Gott’s Garage may not be reduced to less than the numbers as of April 11, 2005, unless there is written consent from both presiding officers.

A Senate Building Trust was proposed under *Senate Bill 393 (failed)*. It would have been composed of the President of the Senate, the State Treasurer, and the Majority and Minority Leaders of the Senate. The Trust would have been responsible for the restoration and preservation of the Senate Building and any other building and the grounds within the Senate Building complex. It would have approved and supervised any proposed improvement or other changes to the buildings, including changes to furnishings, fixtures, artwork, and other memorabilia. For these purposes, the Trust would have been able to accept a gift or loan of property and gifts of money.

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

An attempt to enact a comprehensive system of public funding for candidates for election to the General Assembly was ultimately unsuccessful. *Senate Bill 725/House Bill 1031 (both failed)* would have created an Election Financing Commission and established a Public Election Fund, with funds provided through a variety of sources, including a voluntary taxpayer check-off and budgeted moneys. A candidate would qualify for public funding by raising “seed money” in small contributions. The amount of public financing in the primary or general election would be a maximum of \$50,000 for Senate candidates and \$40,000 for those running for House of

Delegates. The amounts would be less in the case of Delegate races in two-member or single-member districts. Candidates running in uncontested races in the primary or general election would have received significantly lower amounts.

## **Legislators Who Are Lawyers – Legal Proceedings During Session**

Under current law, members of the General Assembly who are lawyers are given time extensions if court proceedings or deadlines for filing briefs or memorandums of law fall during a legislative session. Desk officers of each chamber are included under the provision as well. A gap exists, however, for appellate proceedings and documents such as petitions for certiorari filed in the Court of Appeals. *House Bill 1476 (passed)* corrects that gap and provides that the time prescribed for the filing of a document will begin to run 10 days after the General Assembly adjourns.

## **Annotated Code**

### **Code Revision**

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

This year's Code Revision work product, *House Bill 11 (passed)*, creates a new Housing and Community Development Article of the Annotated Code. The text of the bill encompasses Division I of the new article ("Housing, Community, and Heritage Programs") and generally relates to the operations of the Department of Housing and Community Development. Division I of the article is divided into 11 titles that contain provisions drawn mainly from Article 83B – Housing and Community Development. Article 83B is repealed in its entirety by the bill. Division II of the article, which will be introduced as a proposed bill in the 2006 session, will revise in a nonsubstantive manner the statutory law on housing authorities.

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

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

These corrective measures are the Annual Corrective Bill, *Senate Bill 904 (passed)*, and the Annual Curative Bill, *Senate Bill 903 (passed)*, respectively. Neither enactment contains any substantive change.



## **New Study Committees and Task Forces**

Each year, the General Assembly creates temporary study committees and task forces to conduct in-depth studies of important issues that are not possible to undertake during the legislative session because of the pace of activities. The following bills relate to new study committees and task forces that are to include members of the General Assembly in their membership.

### **Southern Maryland Transportation Needs**

The Southern Maryland counties of Calvert, Charles, and St. Mary's are experiencing tremendous growth in population and commuter traffic, with major roads clogged during rush hour. *Senate Bill 281 (passed)* creates a Commission to Study Southern Maryland Transportation Needs, which includes among its members the President of the Senate, the Speaker of the House, and the three senators, and seven delegates who represent legislative districts 27B, 28, and 29. The commission will report its findings and recommendations by November 1, 2006.

### **Access to Quality and Affordable Health Care**

As part of the comprehensive Community Health Care Access and Safety Net Act of 2005, *Senate Bill 716/House Bill 627 (both passed)*, the General Assembly created a Joint Task Force on Universal Access to Quality and Affordable Health Care. The task force will have three Senate members and three House members, with a senator and a delegate serving as co-chairs. The Secretary of Health and Mental Hygiene and the Executive Director of the Maryland Health Care Commission will serve as nonvoting members. The task force will conduct at least four public hearings throughout the State and will report its findings by the end of 2005. According to the Maryland Health Care Commission, in 2003 there were 363,000 nonelderly uninsured individuals with family income below 200 percent of the federal poverty level.

### **Access to Mental Health Services**

*Senate Bill 544/House Bill 796 (both passed)* establish a Joint Committee on Access to Mental Health Services to monitor access to public mental health services for eligible individuals and medically necessary mental health services for individuals covered by private insurance. The joint committee is an ongoing statutory committee composed of four delegates and four senators.

### **Juvenile Services Oversight**

*House Bill 979 (passed)*, which relates to juveniles who are adjudicated to be delinquent and remain in a juvenile detention facility for more than 25 days, creates a Joint Legislative Oversight Committee on the Department of Juvenile Services (DJS) that is to be staffed by the Department of Legislative Services. The committee may investigate any matter concerning DJS or the provision of services to juveniles under its jurisdiction. The committee is to submit its

findings and recommendations in an annual report to the General Assembly by December 1 of each year and will terminate on December 31, 2007.

### **Small Group Market Health Insurance**

The Comprehensive Standard Health Benefit Plan, mandated by the General Assembly in 1993, is a standard health benefit package that insurance carriers must sell to businesses with 50 or fewer employees. *Senate Bill 961/House Bill 1017 (both passed)* establish a Joint Legislative Task Force on Small Group Market Health Insurance to study and make recommendations on the small group market. The task force is composed of three members of the Senate Finance Committee and three members of the House Health and Government Operations Committee and will report its findings by January 1, 2006.

### **Impact of Autoimmune Disease**

*Senate Bill 909/House Bill 1494 (both passed)* establish a Task Force to Study the Impact of Autoimmune Disease in Maryland. Autoimmune disease is a varied group of more than 80 serious, chronic illnesses that involve almost every human organ system. It includes diseases of the nervous, gastrointestinal, and endocrine systems as well as skin and other connective tissues, eyes, blood, and blood vessels. Some examples of autoimmune disease include lupus; Crohn's disease; multiple sclerosis; Type 1 Diabetes Mellitus; and rheumatoid arthritis. The task force will include one member each from the Senate and House of Delegates, and it will report its findings and recommendations by December 31, 2005 and December 31, 2006.

### **Prescription Drug Repository**

Pharmacies frequently have surpluses of prescription drugs that are safe and unexpired and that they would be willing to donate to a worthy purpose. *Senate Bill 441/House Bill 317 (both passed)* establish a Task Force on the Establishment of a Prescription Drug Repository System to study the viability of setting up such a program. The task force includes two members of the Senate and two members of the House of Delegates. It will report its findings and recommendations by January 1, 2006.

### **Electronic Health Care Records**

With rapid advancements in technology, implementing a system of electronic health records could bring reduced costs, increased efficiency, improved patient safety, and a better quality of health care delivery. A more efficient exchange of information between networks, doctors, and patients could also significantly reduce medication errors. *Senate Bill 251 (passed)* establishes a Task Force to Study Electronic Health Records, with membership that includes a senator and a delegate. The task force will report its findings by December 31, 2007.

### **Voting Machines – Independent Verification Systems**

Because of concerns about the lack of a paper trail on Maryland's touchscreen voting machines, the General Assembly passed *Senate Bill 849/House Bill 479 (both passed)*, directing the State Administrator of Elections to study independent verification systems (including at least one system that includes a voter-verified paper audit trail) for the Diebold machines used throughout the State. To assist and advise the State Administrator, the bills create an advisory committee consisting of three members of the House Ways and Means Committee and three members of the Senate Education, Health, and Environmental Affairs Committee. The findings and recommendations will be reported to the General Assembly by December 1, 2005.

### **Maryland Women Veterans Monument**

*Senate Bill 619/House Bill 523 (both passed)* establish a Task Force on the Establishment of a Maryland Women Veterans Monument. The task force will include as members one senator and one delegate, each of whom serves on the General Assembly's Veteran's Caucus. The group will report by December 31, 2005, with recommendations on funding, design, construction, and placement of an appropriate monument dedicated to women from Maryland who served in the uniformed forces of the United States.

### **Unemployment Insurance Oversight**

In addition to altering several provisions of the unemployment insurance law, *Senate Bill 703/House Bill 798 (both passed)* establish a Committee on Unemployment Insurance Oversight. The committee includes among its membership three senators and three delegates, with a senator and delegate as co-chairs. After studying the condition of the unemployment system in the State, the committee will submit its preliminary findings and recommendations by December 31, 2005, and a final report by the end of 2006.

### **Identity Theft**

The crime of identity theft is a growing problem in Maryland, as it is across the country. Statistics from 2002 show that 3,500 Marylanders were victims of identity theft and that the cost to businesses is approximately \$4,800 per victim. *Senate Bill 43/House Bill 818 (both passed)* create a Task Force to Study Identity Theft, the membership of which will include two senators and three delegates. A senator and a delegate will be co-chairs. After studying the issue, the task force will report its findings and recommendations by December 31, 2006.

### **Disabled Veterans Establishing Small Businesses**

In order to identify and assist disabled State veterans who are striving to become business owners, the General Assembly passed *Senate Bill 319/House Bill 232 (both passed)*. A Task Force on Assistance to Disabled Veterans Establishing Small Businesses, with membership that includes a senator and a delegate, will study the issue and report its findings and recommendations by December 1, 2005.

## **Management and Protection of Water Resources**

Marylanders use almost 1.5 billion gallons of fresh water every day. Concerns about the future availability of sufficient fresh water supplies led to the creation in 2003 of an advisory committee pursuant to an executive order. That group did not have sufficient time to allow a thorough study of the issue, and it recommended that the committee be reestablished. *Senate Bill 164 /House Bill 361 (both passed)* create an Advisory Committee on the Management and Protection of the State's Water Resources with membership that includes a senator and a delegate. The advisory committee will report its findings and recommendations by December 31, 2006, including a recommendation on whether there is a need to continue its study.

## **State Retiree Health Care Funding**

*Senate Bill 305 (passed)* creates a Task Force to Study Retiree Health Care Funding Options. A senator and a delegate, each members of the Joint Committee on Pensions, will be included in the membership. A study of the State's retiree health benefits is considered essential because of the inability to continue funding retiree health care each year solely on a pay-as-you-go basis. The rough estimates are that the retiree health care liabilities for the State are as much as \$6 billion and, on an actuarial basis, are zero percent funded. The bond rating agencies will likely take interest in how the State addresses this issue.

## **Holocaust, Genocide, Human Rights, and Tolerance Education**

Recent history has witnessed numerous examples of genocide and gross violations of human rights, from the Nazi holocaust to the mass killings in Cambodia, Bosnia, and Rwanda. *Senate Bill 440 (passed)* establishes a Task Force to Implement Holocaust, Genocide, Human Rights, and Intolerance Education in the State. The task force will advise the University System of Maryland regarding the establishment of a pilot program to study these issues. Two senators and two delegates will be among the members of the task force, which will report its findings by March 1, 2007 and September 1, 2008.

## **Community College Students with Disabilities**

*House Bill 1236 (passed)* establishes a Community College Students with Disabilities Task Force to identify impediments faced by community college students who have disabilities. There are approximately 12,300 elementary and secondary school students with disabilities in the State's public schools, and many are expected to enter community colleges upon graduation. The task force membership will include a senator and a delegate, and a report of findings and recommendations will be submitted by December 1, 2005.

## **Visual Smoke and Evacuation Alarms for the Deaf**

People who are deaf or hard of hearing living in apartments and condominiums are dependent on visual alarm signals in an emergency evacuation. These systems can be very expensive to install, however. *Senate Bill 735 (passed)* establishes a Task Force to Study Visual Smoke and Evacuation Alarms for the Deaf and Hard of Hearing, which will include a senator

and a delegate among its members. The task force will report its findings by September 30, 2006.

### **Common Ownership Communities**

Common ownership communities include condominiums, cooperatives, and homeowners associations, and each classification is governed by separate laws containing different requirements. It is reported that there has been an increase in disputes relating to these communities, principally between boards of directors and homeowners, as well as an increase in complaints to the Consumer Protection Division of the Attorney General's Office. A Task Force on Common Ownership Communities is established under *Senate Bill 229 (passed)*. The task force will include one senator and two delegates as members, and it will report by December 31, 2006.

### **Program Evaluation (“Sunset Review”)**

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

Bills extending the sunset dates on regulatory entities under the Program Evaluation Act are:

- State Board of Dental Examiners – *Senate Bill 248 (failed)/House Bill 420 (passed)*.
- Maryland Tobacco Authority – *Senate Bill 249/House Bill 285 (both passed)*.

