

## Part C

# State Government

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### State Agencies, Offices, and Officials

#### Immigration

Maryland continues to be a major destination for immigrants, with over 20,000 legal immigrants coming to the State each year. International immigration added 129,730 people to the State's population between 2000 and 2006, the fifteenth largest gain from immigration among all states during that period. A significant portion of Maryland's immigrants are undocumented, according to estimates made by private research organizations. The nonpartisan Pew Hispanic Center has estimated that between 225,000 and 275,000 undocumented immigrants had settled in Maryland by 2005 – the eleventh highest number among all states.

Courts have consistently noted that immigration constitutes a federal concern, not a state or local matter, and that the United States Congress had made clear its intent that federal law preempt state law in the area of immigration. However, in the absence of significant reform of the federal immigration laws, many states have proposed and enacted laws curtailing the rights of undocumented immigrants, especially with regard to the availability of public benefits or services

A number of immigration reform bills were introduced in the General Assembly during the 2008 session. *House Bill 1602 (passed)* establishes a Commission to Study the Impact of Immigrants in Maryland. The commission, to be staffed with experts from the University of Maryland, College Park, is tasked with studying the impact of immigrants of lawful status as well as undocumented immigrants, and reporting its findings to the Governor and the General Assembly by January 1, 2011. Another measure, *Senate Bill 52 (failed)* would have created a task force to study the fiscal impact of undocumented immigrants on the State.

Four bills, *Senate Bill 93 (failed)*, *House Bill 288 (failed)*, *Senate Bill 621 (failed)*, and *House Bill 1046 (withdrawn)*, would have prohibited the Motor Vehicle Administration from issuing driver's licenses, identification cards, and/or moped operator permits to individuals who could not provide documentation of lawful presence status in the United States. *Senate Bill 84 (failed)* would have prohibited the State from providing any public benefit or service not otherwise deemed an entitlement under federal law to any undocumented immigrant in

Maryland. *House Bill 885 (failed)*, and *Senate Bill 421/House Bill 735 (both failed)* would have prohibited counties and municipalities from acting as “sanctuaries” by requiring them to fully comply with and support federal immigration law. *House Bill 1232 (failed)* would have conferred standing upon any registered voter of the State to file a legal complaint against any employee or officer of the State or a local government alleged to have violated federal immigration laws.

### **Task Force on the Preservation of Heritage Language Skills in Maryland**

The General Assembly also passed legislation to establish the Task Force on the Preservation of Heritage Language Skills in Maryland and to consider innovative and cost-effective ways to facilitate heritage language learning while encouraging new United States citizens to learn and master English. The preamble to *Senate Bill 506/House Bill 610 (both passed)* notes that public school students in Maryland speak at least 150 different languages, and that the ability to speak and understand foreign languages has become increasingly important for national security and in the global economy. A final report with findings and recommendations is due from the task force by January 1, 2009.

### **State Agencies – Reorganization and Program Transfers**

#### **Department of Information Technology**

The Chief of Information Technology position and the Information Technology Board were created in 1993 by executive order as recommended in the *Preliminary Report of the Governor’s Commission on Efficiency and Economy in Government*. Chapter 493 of 1994 established them in statute, and funding for the office was included in the fiscal 1994 budget. Currently, the Office of Information Technology and the Chief of Information Technology are within the Department of Budget and Management and report to the Secretary of Budget and Management.

*Senate Bill 212 (passed)/House Bill 362 (Ch. 9)* establish a new Department of Information Technology and designate it as a primary procurement unit for the purpose of controlling procurement of information processing equipment and associated services and telecommunication equipment, systems, or services. The bills also transfer from the Department of Budget and Management to the new department primary responsibility for coordinating all aspects of the State’s telecommunications policy, procurement, and management. This includes improving and expanding access to telecommunications and computer networks in rural areas and by people with disabilities. All existing duties and powers of the Office of Information Technology in the Department of Budget and Management and its chief are granted to the new department and its secretary. No additional powers have been granted to the new secretary. In addition, all staff of the office are transferred to the new department, and no additional staff or resources will be added to the new department.

By January 15 of each year, the new Department of Information Technology must report to the Department of Legislative Services regarding the project status of each major IT project

under development or receiving operations and maintenance funding. The report is to provide the most up-to-date information regarding (1) changes in the project’s schedule, cost, or scope; (2) the project’s risk assessment; and (3) any change in the project’s monitoring or oversight status.

*Senate Bill 212/House Bill 362* also repeal the State Information Technology Board.

### **Governor’s Office of Community Initiatives**

*House Bill 782 (passed)* codifies in statute the Governor’s Office of Community Initiatives, which was established by executive order in 2007. It also transfers to the office the Commission on Indian Affairs from the Department of Human Resources and the Commission on African American History and Culture from the Maryland Department of Planning. The bill codifies placement of the Governor’s Office on Service and Volunteerism within the Office of Community Initiatives and transfers oversight of the two commissions from the Secretary of Human Resources and the Secretary of Planning, respectively, to the Governor.

### **Department of Human Resources**

*House Bill 1443 (Ch. 116)* reorganizes the Department of Human Resources by repealing the Community Services Administration, transferring the Energy Assistance Program to the Family Investment Administration, providing for the management of the Maryland Emergency Food Program by the department, and locating the Commission on Responsible Fatherhood in the department for budgetary and administrative purposes.

The reorganization is intended to eliminate redundancy in the department and improve service delivery. Pursuant to the reorganization, the Office of Home Energy Programs and the Office for New Americans are transferred to Family Investment Administration; the Office of Adult Services is transferred to the Social Services Administration; the Maryland Legal Services Program is transferred to the Office of the Secretary; and the Office of Victim Assistance, the Office of Transitional Services, and the Office of Community Initiatives are consolidated in a new Office of Grants Management.

### **Transfer of Adult Education and Literacy Services and Education Programs**

*Senate Bill 203 (passed)* moves adult education, literacy services, and correctional institutions’ education programs from the State Department of Education (MSDE) to the Department of Labor, Licensing, and Regulation (DLLR). The Adult Education and Literacy Services Office in the Division of Workforce Development will administer the transferred programs. For a more detailed discussion of this bill, see the subpart “Adult Education” of Part L – Education and the subpart “Labor and Industry” of Part H – Business and Economic Issues of this *90 Day Report*.

*Senate Bill 203* also expands the purview of the Education Coordinating Council for Correctional Institutions to include workforce development, renames the council to reflect the change, and adds two members to the council. The council’s jurisdiction is transferred from

MSDE to DLLR and the Department of Public Safety and Correctional Services. DLLR is required to provide education and workforce skills training programs in the State's adult correctional institutions. The bill requires the transfer of adult education and literacy services, as well as education and workforce skills training programs, on July 1, 2009.

### **Maryland Youth Advisory Council**

*Senate Bill 1 (passed)* establishes the Maryland Youth Advisory Council to inform the Governor and the General Assembly of issues concerning youth. It will consist of 55 young people, appointed by the President of the Senate, the Speaker of the House of Delegates, and the Governor. One senator and one delegate will also serve on the council. The council is charged with recommending one legislative proposal each year for possible introduction, conducting one or two public hearings each year on issues of importance to youth, and conducting a public awareness campaign. MSDE may elect to allow student members to earn school credit for their service on the council. By June 1 of each year, the council must report on its activities to the Governor and the General Assembly.

### **State Agency Authority**

#### **Department of General Services Police**

The Department of General Services (DGS) has jurisdiction over the operation, maintenance, and protection of buildings and grounds in Annapolis and Baltimore City. *House Bill 1550 (passed)* clarifies that DGS has full police jurisdiction and authority for the enforcement of criminal laws and parking and motor vehicle laws in buildings and on grounds currently under DGS jurisdiction. The bill also extends this jurisdiction to areas within 1,000 feet of these buildings and grounds in Annapolis and Baltimore City.

#### **State Archives Fees**

The State Archives is charged with collecting public and private records relating to the history of the State of Maryland. The Archives is also the central depository and custodian of each deed, title insurance policy, and other real property record in the State. *Senate Bill 147 (Ch. 19)* authorizes the State Archivist to establish fees for the care and preservation of records and other services provided by the Archives. Fees accrue to the State Archives Fund, with 7 percent designated for the fund's Archives Endowment Account.

#### **Lower Appeals Division in the Department of Labor, Licensing, and Regulation for Unemployment Insurance Claims**

*House Bill 432 (passed)* establishes a Lower Appeals Division in the Department of Labor, Licensing, and Regulations to hear and decide appeals of unemployment insurance determinations. The bill codifies existing practices. For a more detailed discussion of this bill, see the subpart "Unemployment Insurance" within Part H – Business and Economic Issues of this *90 Day Report*.

## State Spending Database

The Federal Funding and Accountability Act of 2006 required the federal government to establish a searchable web site for all federal grants, contracts, and other funding awarded to public and private organizations. *House Bill 358 (passed)*, the Maryland Funding Accountability and Transparency Act of 2008, requires the Department of Budget and Management to develop a free, public, searchable web-based database by January 1, 2009, that includes detailed information on State payments of at least \$25,000. Payments to State employees and retirees as compensation or retirement allowance will not be included in the web site. The bill also requires the Chief of Information Technology, by June 30, 2010, to conduct a study of the feasibility and cost of expanding the web site to search by different elements and include information on other forms of assistance in the amount of \$25,000 or more.

## Minority Business Enterprises Investment Management and Brokerage Firms

*Senate Bill 606/House Bill 1277 (both passed)* require the State Retirement and Pension System, State Treasurer, Injured Workers' Insurance Fund, and Maryland Automobile Insurance Fund to undertake to use investment management and brokerage firms that are minority business enterprises (MBEs) to the greatest extent feasible and consistent with their fiduciary duties. Together, these entities manage and invest almost \$51 billion in State funds. The four entities' use of MBEs must be consistent with MBE purchasing standards in current law, which establish a goal that at least 25 percent of the total value of each agency's procurement contracts be awarded to MBEs. This includes separate goals of 7 percent to African American-owned businesses and 10 percent to women-owned businesses. The four entities must work with the Governor's Office of Minority Affairs to develop guidelines to implement the bill's provisions and use a wide variety of media, including their web sites, to publicize the brokerage and investment management services needed.

## State Lottery

*Senate Bill 180 (passed)* prohibits a licensed agent of the Maryland State Lottery Agency from paying a prize winner less than the lawful amount when redeeming lottery tickets and prizes. Specifically, the bill prohibits an agent from seeking a cashing fee, deceiving a prize winner, purchasing a lottery ticket, or otherwise circumventing the payment of prize winnings. The bill also prohibits a person from knowingly purchasing a lottery ticket with the intent to avoid tax payments to the State.

## State Designations

### American Indian Heritage Day

The State of Maryland recognizes 15 legal holidays and 12 State employee holidays. In 1990, former President George H.W. Bush approved a Joint Resolution of Congress designating November as National American Indian Heritage Month, a designation that has since been made each year since 1994. *House Bill 83 (passed)* designates the Friday after Thanksgiving Day as

American Indian Heritage Day and adds it to the list of State legal and employee holidays. The day after Thanksgiving Day is already a State employee holiday.

### **Maryland Charter Day and Annapolis Charter Day**

The State recognizes four commemorative days in its laws, including John Hanson's Birthday on April 13, Law Day on May 1, Poetry Day on October 15, and Asian Lunar New Year Day on the day designated as new year on the Asian Lunar Calendar. *Senate Bill 546/House Bill 957 (both passed)* require the Governor to proclaim December 17 as Annapolis Charter Day and June 20 as Maryland Charter Day. Three hundred years ago, the residents of Annapolis received a Royal Charter from Queen Anne that granted them powers of self-government. The General Assembly confirmed and codified Annapolis' chartered powers on December 17, 1708, making it the first incorporated municipality in Maryland. King Charles I granted Cecelius Calvert, the second Lord Baltimore, a charter for the Maryland Colony on June 20, 1632.

### **State Symbols**

The State recognizes 21 official State symbols. *Senate Bill 287/House Bill 315 (both passed)* recognize as the State dessert Smith Island Cake, an 8 to 10 layer cake made famous by the residents of Smith Island, the State's only inhabited offshore island in the Chesapeake Bay. Smith Island Cake joins milk as a State symbol, which has been designated the State drink.

*Senate Bill 437/House Bill 1311 (both passed)* designate walking as the State Exercise. The General Assembly passed similar legislation in 2003, but it was vetoed by the Governor. The State currently recognizes jousting as the State sport and lacrosse as the State team sport.

## **Elections**

### **Funding for a New Voting System**

Chapters 547 and 548 of 2007 require that the State's voting system provide a specified "voter-verifiable paper record," effectively mandating a transition to a paper-based, optical scan voting system prior to the 2010 gubernatorial elections. That enactment, however, is contingent on sufficient funds being appropriated in the State budget no later than fiscal 2009 for the State Board of Elections (SBE) to perform the functions set forth in the Act.

Direct-recording electronic (DRE) touchscreen voting machines, which the State currently uses, have been heavily scrutinized in recent years, both in Maryland and nationwide. The security of the machines and the integrity of the voting results produced by them have been studied repeatedly and both discounted and defended. In addition to Maryland, other states in 2007 and 2008 also moved or contemplated moving away from the use of DRE machines, including Florida, California, Ohio, and Colorado.

The fiscal 2009 budget includes \$4.1 million in general and special funds (\$2.03 million in State general funds and \$2.03 in special funds representing the local government share of the cost) for the new voting system for capital lease payments and costs for consultant services and software installation and testing. The total projected cost to implement the new voting system is estimated to be \$40.6 million over five years (not accounting for financing costs), though the actual cost will not be known until the procurement process is completed and a contract for the voting system and associated services is entered into.

## **Election Procedures and Administration**

### **Special Congressional Election**

A vacancy in the office of Representative for the Fourth Congressional District anticipated in 2008 led to the introduction late in the session of emergency Administration bills, *Senate Bill 1014/House Bill 1627 (both passed)*. Under State law, if a vacancy in the office of Representative in Congress occurs during the period beginning 60 days prior to the regular primary election for the office and ending on the last day of the term for the office, the Governor has the option of calling a special primary election and a special general election to fill the vacancy or allowing the office to remain vacant for the remainder of the term. With the regular primary election having been held February 12, 2008, and the term ending in January 2009, the vacancy in the Fourth Congressional District is anticipated to occur during that period. The cost of a special primary election and a special general election to fill the vacancy in the Fourth Congressional District would be approximately \$100,000 for SBE, \$1.2 million for Montgomery County, and \$1.4 million for Prince George's County.

Both measures authorize the Governor to call a special general election to fill a vacancy in the office of Representative in Congress without a preceding special primary election if the vacancy occurs due to resignation after the date of the regular primary election. The bills empower the Governor to issue a proclamation setting the date of the special general election and related candidacy, nomination, and petition filing deadlines. The powers and duties of the State Administrator of Elections with regard to the special general election also are specified.

The bills differ, however, with respect to the procedures the political parties must follow in nominating candidates for a special general election and other matters.

*Senate Bill 1014* requires the State central committee of a political party to nominate a candidate for a special general election after consideration of the recommendations of the local central committees of the political party in each county that is included in the district of the office. A special general election must be held at least 36 days after the date of the Governor's proclamation. The bill terminates one year from the date of enactment.

*House Bill 1627* requires the State central committee of a political party to nominate a candidate for a special general election who is recommended by all of the local central committees of the counties included in the district of the office. If the local central committees recommend different candidates, the State central committee is required to select one of the candidates recommended by the local central committees as the nominee. A special general

election must be held at least 36 days and not more than 60 days after the date of the Governor's proclamation. The bill terminates on December 31, 2008.

### **Voting/Registration by Individuals Younger Than 18**

In the past, an individual who would be 18 years old by the time of the next general election has been allowed to register prior to and vote in the preceding primary as a 17-year-old based on an assumption that voter qualification provisions of the Maryland Constitution specifying that an individual that is 18 or older be entitled to vote only applied to general elections. State law also specifies that an individual may register to vote if the individual will be age 18 or older on or before the next general or special election and is otherwise qualified. However, on advice of the Office of the Attorney General subsequent to the issuance of a December 2006 Court of Appeals opinion in *Lamone v. Capozzi*, 396 Md. 53, 912 A.2d 674 (2006), SBE instituted a policy that a voter must be 18 on or before the day of *any* election in order to vote, on the belief that the court's opinion indicated that Article 1, §1 of the Maryland Constitution, which includes the voter qualification provisions specifying that an individual that is 18 or older be entitled to vote, was applicable to primary as well as general elections.

Subsequent to the advice given to SBE following the issuance of the *Lamone v. Capozzi* opinion, the Attorney General later advised, in December 2007, that subsequent rule changes by the Democratic and Republican parties, as authorized by the parties' owing to associational rights under the federal constitution, that SBE should implement the voter registration qualifications under State election law as it had in the past, allowing an individual who is age 18 or will be age 18 on or before the next general or special election to register and vote in the primary that precedes that general or special election.

In addition, a February 8, 2008 Maryland Court of Appeals order indicated that the voter qualification provisions of the Maryland Constitution are not in conflict with, and do not prohibit the General Assembly from establishing, the existing age-related provisions of voter registration eligibility requirements under State election law. The court ordered that all 17-year-old registered voters that would be 18 on or before the November 2008 general election be entitled to vote in the February 12, 2008 primary elections, with the exception of special or municipal elections conducted concurrent with the primary elections.

*Senate Bill 201 (failed)*, as introduced and passed by the Senate, would have proposed a constitutional amendment to be submitted to the voters of the State, specifying that an individual who is at least age 18 or will be 18 on or before the day of the next succeeding general or special election, and is otherwise qualified, is entitled to vote. *House Bill 310 (failed)*, as passed by the House, would have specified in State law that an individual who is at least age 16, and is otherwise qualified, may become registered to vote and that an individual younger than age 18 may vote in a primary election in which candidates are nominated for a general or special election that will occur when the individual is at least age 18.



## **Election Administration and Prohibited Actions**

A number of issues arose during the 2006 elections relating to election administration as well as campaign material provided to voters. Problems were experienced with newly implemented e-pollbook voter check-in devices, for example, and difficulties with recruitment and subsequent attendance of some election judges at the polls resulted in delayed openings of some polling places. *Senate Bill 54/House Bill 102 (both failed)* would have made changes to State election law related to some of those issues. Among other things, the bills would have (1) specified that an individual is eligible to cast a provisional ballot if there is a problem outside of a voter's control that causes the voter to be unable to vote a regular ballot; (2) specified requirements applicable to election judge training and conduct; (3) allowed a local election board to keep a polling place open for an additional period of time under certain circumstances; and (4) specified generally that certain campaign material may not be distributed, disseminated, or published, or caused to be distributed, disseminated, or published, with the knowledge that it is false and with the intent to influence a voter or to prevent the voter from exercising the right to vote in an election.

## **Campaign Finance**

### **Slot Machine Gaming Referendum – Campaign Finance Reports**

The constitutional amendment proposed by Chapter 5 of the 2007 special session would authorize the issuance of a limited number of video lottery operation licenses in the State, subject to specified requirements and conditions. Chapter 5 will be submitted to Maryland voters' for approval or rejection at the 2008 general election.

Chapter 4 of the 2007 special session requires a corporation that cumulatively spends more than \$10,000 on campaign material to promote the success or defeat of the constitutional amendment proposed by Chapter 5 to file campaign finance reports on the same dates on which a ballot issue committee is required to file campaign finance reports under State law. In addition, a corporation must include on all campaign material published or distributed by the corporation to promote the success or defeat of the constitutional amendment specified information identifying those responsible for the campaign material.

*Senate Bill 755 (passed)* requires any person that makes cumulative expenditures of more than \$10,000 to promote the success or defeat of the constitutional amendment proposed by Chapter 5 to report certain information to SBE within 7 days and subsequently file campaign finance reports on the same dates, in the same manner, and subject to the same sanctions as a ballot issue committee. In addition, any person, other than an individual who uses personal funds and acts independently of others in making expenditures, is required to include an authority line on all campaign material published or distributed by the person to promote the success or defeat of the constitutional amendment proposed by Chapter 5.

### **Campaign Finance Reports – Electronic Signature and Affidavits**

Under current law, a campaign finance report may be submitted electronically, but a separate paper transmittal sheet signed by the chairman and treasurer of a campaign finance entity must be sent to SBE attesting to the accuracy of the report. *House Bill 1432 (passed)* authorizes SBE to accept an electronic signature for a campaign finance report or any other document required by State campaign finance law. A person is prohibited from making an electronic submission of any required document on behalf of another person without that person's express consent.

Current law also allows a candidate's authorized committee to submit an affidavit on or before the date its first campaign finance report is due stating that it does not intend to raise or spend more than \$1000. A committee that files this affidavit is not required to file any subsequent campaign finance reports unless the \$1000 limit is exceeded. Similarly, a candidate's authorized committee may submit an affidavit in lieu of a required campaign finance report if the committee had contributions and expenditures of less than \$1000 in a reporting period. A committee that files this affidavit is also not required to file subsequent campaign finance reports, except for the annual report, unless it raises or spends more than \$1000.

*House Bill 1432* creates a single affidavit of limited contributions and expenditures that may be submitted in lieu of a campaign finance report. The affidavit may be filed by any campaign finance entity, not only a candidate's committee. The affidavit must be filed for each reporting period on or before the date the campaign finance report is due and state that the campaign finance entity did not have contributions or expenditures of more than \$1000 since its establishment or the date of its last campaign finance report. The affidavit also may be submitted in lieu of the annual report.

### **Public Financing of Campaigns**

A number of states offer public funds to candidates through full or partial campaign financing. Arizona and Maine, states that provide full campaign financing, had participation rates of 60 percent and 80 percent in their respective programs in 2006. Proponents of public campaign financing characterize such programs as helping to level the playing field for candidates that might not be able to raise the amount of funding needed to compete in elections in the midst of rising campaign costs as well as helping to increase public confidence in decisions made by elected officials by mitigating the influence of campaign contributors.

*Senate Bill 593/House Bill 971 (both failed)* proposed a system of public campaign financing for General Assembly members funded primarily through abandoned property revenue and a tax checkoff. *House Bill 826 (failed)*, would have authorized Montgomery County, the State's largest county by population and one in which candidates are reported to incur significant campaign costs when running for county elective offices, to enact local laws to regulate public campaign finance activity for county elective officers and candidates for election to those offices who choose to accept public campaign financing.

## Ethics

### Financial Disclosure – Electronic Filing

State officials, candidates for State office, and mid-to-high-level State employees (termed “public officials” in the Public Ethics Law) are required to file, under oath, annual financial disclosure statements with the State Ethics Commission. In addition, regulated lobbyists must file, under oath, various reports with the commission, detailing information such as their income derived and expenses incurred from lobbying activities and their campaign contributions for elective offices. *Senate Bill 191 (Ch. 24)*, requires the oath or affirmation accompanying a mandated disclosure that is filed electronically by a State official, public official, candidate for State office, or regulated lobbyist to be made by an “electronic signature” made expressly under the penalties for perjury, rather than by a signed statement on paper. If a financial disclosure statement is filed in paper format, the oath or affirmation will continue to be a signed statement on paper.

*Senate Bill 190 (failed)* would have required that all financial disclosure statements submitted by State officials, public officials, and candidates for State office be submitted electronically rather than as paper documents. Seventy-one percent of the financial disclosure statements filed in 2007 were filed electronically.

### Architectural and Engineering Services – Procurement

*House Bill 629 (passed)* removes several termination dates for certain exemptions from conflicts of interest provisions codified in the Public Ethics Law that relate to procurement contracts for architectural and engineering (A&E) services.

In general, individuals or firms that assist in drafting specifications for a procurement contract may not submit a bid or proposal for that procurement, subject to certain exemptions. A variety of exemptions have been made for architectural and engineering services and several were scheduled to terminate in 2008.

An enactment in 2004 established an exemption for A&E services if the value of a construction project subject to the exemption was no more than \$40 million, increased to \$100 million in 2006. The provision also required the Maryland Department of Transportation to issue annual reports on the implementation of the law’s provisions, including the impact on small businesses and minority business enterprises. The provisions are scheduled to terminate September 30, 2008, and *House Bill 629* removes the termination date to make the exemption permanent.

A 2006 enactment allowed A&E firms to bid on a construction contract if the design services did not involve lead or prime design responsibilities or construction phase responsibilities on behalf of the State and (1) the construction contract was valued at not less than \$2.5 million and not more than \$100 million; *or* (2) the payment for the A&E services was \$500,000 or less, regardless of the amount of the procurement contract. The provision is

scheduled to terminate on June 30, 2008, and *House Bill 629* removes the termination date to make the exemption permanent.

### **WSSC and M-NCPPC – Appointment Procedures for Commissioners**

*House Bill 940 (passed)* requires closer scrutiny of possible conflicts of interest during the appointment process for members of the Washington Suburban Sanitary Commission (WSSC) and the Maryland-National Capital Park and Planning Commission (M-NCPPC).

The bill provides that the county executive of Montgomery County or Prince George's County (or the county executive's designee) is required to interview an applicant who is selected for appointment to the WSSC, concerning the applicant's possible conflicts of interest. Furthermore, the bill authorizes a designee of the Montgomery County Executive to request documents from Montgomery County applicants. The bill also changes the period covered by financial disclosure statements for applicants for appointment to the WSSC and the M-NCPPC and changes the deadline for submission of the statements by M-NCPPC applicants. Finally, the bill requires the County Executive of Prince George's County (or the County Executive's designee) to inform the Prince George's County Council, before appointment, of possible or potential conflicts of interest of an applicant who is selected for appointment to the WSSC.

## **Procurement**

Most procurement legislation passed by the General Assembly during the 2008 session focused on fine tuning or extending existing processes and preference programs, and on expanding the types of procurements that are exempt from State procurement law. One exception to this pattern, however, was the Governor's proposal to commit the State to use environmentally friendly building practices when constructing new State buildings and local school buildings.

### **Green Buildings**

*Senate Bill 208 (passed)*, an Administration bill, requires new and substantially renovated State buildings and new school buildings to be constructed as high performance buildings. High performance buildings are those that achieve at least a silver rating under the U.S. Green Building Council's Leadership in Energy and Environmental Design (LEED) program or a comparable rating under any other nationally accepted standard. Unoccupied State buildings are exempt from the requirement, and other buildings may obtain waivers from this requirement, if necessary.

According to the Maryland Green Building Council, construction costs for high performance buildings will be about 2 percent higher than construction costs for traditional buildings. Under the bill, the State is required to pay half of the local share of increased school construction costs associated with the construction of high performance school buildings from fiscal 2010 through 2014. After that, local school systems will pay their full share of increased

construction costs under the cost sharing formula applied to local school construction projects. While adding to the upfront cost of constructing new buildings, green building strategies are expected to generate significant operational savings and resource conservation over the buildings' life spans.

## **Procurement Processes**

The General Assembly made several adjustments to the processes by which the State solicits and awards procurement contracts, largely by extending or repealing the scheduled expiration of existing laws.

*House Bill 312 (passed)* extends the termination, from September 2009 to September 2014, of a 2006 law designed to make it easier for new and small businesses to secure the bonding necessary to participate in State procurement contracts. Chapter 299 of 2006 increased the maximum value of surety bonds that could be issued by the Maryland Small Business Development Financing Authority from \$1 million to \$5 million, allowing small businesses to bid on larger State contracts. It also authorized State procurement officers to accept individual surety bonds to meet the requirements for bid and performance bonds on certain State procurements.

*House Bill 484 (passed)* extends the scheduled termination, from September 2008 until September 2013, of a State law that allows State procurement units to consider and approve, under specified circumstances, unsolicited proposals. It also adds lottery services to the list of services that can be procured by unsolicited proposals, and raises the permissible length (from two to three years) and spending limits (from \$1 million annually to \$2 million annually, but not to exceed \$4 million for the total contract) for contracts that result from unsolicited proposals.

*House Bill 629 (passed)* repeals the scheduled June 2008 termination of provisions in State law that, under certain circumstances, allow architectural and engineering (A&E) firms that participate during the design phase of a construction project to bid or assist with a bid for the construction contract for the same project. This will allow A&E firms to participate in both the design and construction phases of projects valued at between \$2.5 million and \$100.0 million, or if they received less than \$500,000 for their A&E services. If the current provisions had expired as scheduled, A&E firms would not have been allowed to participate in both the design and construction phases of any construction project.

*House Bill 865 (passed)* requires State agencies and local governments to publish procurement notices and awards on eMaryland Marketplace, the State's web-based procurement portal. The requirement extends only to procurements issued as competitive sealed bids, competitive sealed proposals, or noncompetitive negotiations, and applies only to procurements valued at \$25,000 or more. Most State agencies already use eMaryland Marketplace, so the bill's effect will be felt mostly by local governments. However, the bill does not prevent local governments from operating their own procurement systems.

*Senate Bill 948/House Bill 1596 (both passed)* prohibit the Board of Public Works from approving a proposed lease that qualifies as a capital lease unless the Capital Dept Affordability

Committee certifies that State debt incurred by the lease can prudently be authorized or the General Assembly has approved the lease in the budget. This ensures that the State will not incur additional debt by approving a capital lease that is mistakenly presented to the Board of Public Works as an operating lease. Under current policy, the Capital Debt Affordability Committee suggests that State debt outstanding be limited to 3.2 percent of State personal income and total State debt service should be limited to 8 percent of State revenues supporting debt service.

*House Bill 440 (passed)* requires State agencies to notify labor unions representing State employees at least 60 days before issuing a procurement for certain service contracts that could privatize or outsource jobs being performed by State employees. In general, State law requires that State functions be performed by State employees, but certain contracts are exempt from that requirement. The bill applies only to nonexempt contracts, and the State has not issued any procurements for nonexempt contracts in at least 10 years. Among the types of service contracts that fall within the exempt category are contracts to provide services when:

- State employees are not available to perform the necessary service;
- a conflict of interest would result if a State employee performed the service;
- the services require emergency appointments;
- the services are incidental to the purchase or lease of personal or real property;
- a clear need exists to obtain an unbiased finding, or opinion; or
- the General Assembly authorizes or requires that certain services be performed by an independent contractor.

### **Exemptions from Procurement Law**

The General Assembly streamlined processes for two categories of procurements. *Senate Bill 926/House Bill 1512 (both passed)* exempt from State procurement law all contracts and grants awarded by the State to the Chesapeake Bay Trust. This allows State agencies to award grants and contracts directly to the trust without sponsoring competitive procurements. However, the bills subject subgrants and contracts issued by the trust to State procurement law. The trust makes several hundred grants to water quality monitoring, wetlands restoration, oyster seeding, tree plantings, educational experiences, and other projects every year.

*Senate Bill 186 (Ch. 23)* includes construction procurements by the Department of General Services valued at \$50,000 or less within the definition of small procurements. Small procurements, currently defined as those valued at \$25,000 or less, are not subject to the approval of procurement control agencies or the Board of Public of Works.

## Minority Business Enterprises

Although the General Assembly did not make any changes to the State’s Minority Business Enterprise (MBE) program, it did seek to expand or maintain the participation of MBEs in State and local contracting. *House Bill 1277/Senate Bill 606 (both passed)* require the State Treasurer, the Maryland Automobile Insurance Fund, the Injured Workers’ Insurance Fund, and the State Retirement and Pension System to attempt to use MBE brokerage and investment management firms to the greatest extent feasible and consistent with their fiduciary responsibilities. A more detailed discussion of this issue may be found under the subpart “State Agencies, Offices, and Officials” within Part C – State Government of this *90 Day Report*.

*Senate Bill 847 (passed)* establishes a Task Force on the MBE Program and Equity Investment Capital to study methods by which Maryland’s MBEs can secure a greater proportion of private equity invested in private firms. The task force’s final report is due to the Governor and the General Assembly by December 1, 2009.

*House Bill 941 (Ch. 100)* extends until September 2013 the authority for the Maryland-National Capital Park and Planning Commission to administer its own MBE program. The commission’s MBE program was first authorized in 1995 and was scheduled to terminate in September 2008. It is credited with increasing contract awards to MBEs to their current level of 33.7 percent of the commission’s contract spending.

## Preference Programs

*Senate Bill 301/House Bill 561 (both passed)* raise the average gross sales ceilings used to determine firms’ eligibility for the Small Business Reserve Program, and establish a new ceiling for A&E firms. As with the prior eligibility criteria, the new ceilings vary by industry. The bills also add the Maryland Transportation Authority and the new Department of Information Technology to the list of agencies subject to the program. To monitor the impact of the new ceilings on current SBR participants, the bills require the Department of General Services to prepare a report by October 2011 detailing any adverse effects on those firms.

*Senate Bill 368/House Bill 805 (both passed)* broaden the definition of community service providers eligible to participate in a State purchasing preference program previously reserved for sheltered workshops serving individuals with disabilities. The new definition encompasses agencies providing community-based supported employment for individuals with disabilities while still including sheltered workshops in the program.

*Senate Bill 612/House Bill 881 (both passed)* add a purchasing preference for businesses owned by individuals with disabilities to the list of purchasing preferences for State agencies and State-aided or controlled entities. Currently, State agencies and other affected entities must purchase services and supplies from Maryland Correctional Enterprises, Blind Industries and Services of Maryland, or community-based service providers serving individuals with disabilities, in that order of preference. Only if those groups do not provide the desired services or supplies may an agency issue a competitive procurement. Under these bills, State agencies

and other affected entities must purchase from businesses owned by disabled individuals if the first three groups of preferred sellers do not provide the desired services or supplies.

*Senate Bill 158/House Bill 696 (both passed)* establish the Jane Lawton Farm-to-School Program in the Maryland Department of Agriculture to promote and facilitate the sale of Maryland agricultural products to schools. The program, named after a former delegate who died unexpectedly in November 2007, must maintain a database of farmers interested in selling their produce to schools, sponsor school-based promotional events, and provide guidance to farmers about selling their produce to local school systems.

*House Bill 1431 (passed)* adds a 2 percent price preference for veteran-owned small businesses and a 3 percent price preference for disabled veteran-owned small businesses to the existing price preference for all small businesses under the State's Small Business Preference (SBP) Program. The bill also increases the maximum small business price preference for any procurement issued under the program from 5 to 8 percent. Four State agencies participate in the SBP program, and only a small fraction of their procurements are issued under the program's authority.

## Personnel

### Budget Actions on State Personnel

The regular employee compensation package as approved in the State budget for the fiscal year beginning on July 1, 2008, (fiscal 2009) includes • the required State match of \$600 for those employees participating in individual deferred compensation plans; • salary increments worth between 1.7 to 3.9 percent of the standard salary schedule for employees who are performing at or above established standards for their classification; and • a cost-of-living increase of 2.0 percent, applied uniformly across all positions. Employee and retiree health benefits were unchanged.

The size of the regular State workforce was increased through the budget process by 154 positions, or 0.19 percent, to 81,736 regular positions.

### Carryover and Accrual of Annual Leave

Annual leave is one of the benefits offered to State employees. *Senate Bill 177 (Ch. 20)* increases the number of hours of unused annual leave an employee in the State Personnel Management System may carry over from one year to the next from 400 hours (50 days) to 600 hours (75 days). Any leave in excess of that amount will be forfeited at the beginning of the first full pay period of the next calendar year. Although the Act increases the maximum amount of annual leave an employee may carry over, it does not increase the amount of annual leave that may be reimbursed at the termination of State employment.



## Seniority Points for Eligible Veterans

Generally, employee layoffs occur when an employee is in a position that will be abolished, discontinued, or vacated because of a change in organization or because of a stoppage or lack of work. In the State Personnel Management System, if layoffs are contemplated, skilled and professional employees in a class are to be laid off based on their number of seniority points, which accrue based on length of State employment, length of employment in the affected principal unit, and length of employment in the affected job series. Reinstatements are also ordered on these criteria.

*House Bill 1435 (passed)* requires an appointing authority to award 10 seniority points to an eligible veteran when computing points for employees subject to layoff. An additional 2 points must be awarded to an eligible veteran who is a former prisoner of war or has a service-connected disability. An eligible veteran convicted of a crime after completing military service does not qualify for this consideration.

## Transfer of Baltimore City Legal Services Personnel

The Legal Services Division of the Baltimore City Department of Social Services represents the department in legal and administrative proceedings involving matters of child welfare and guardianship. The division consists of 75 regular employees who are in the State Personnel Management System and 22 employees who provide services under a contract with the University of Baltimore.

Employee benefits under the University of Baltimore contract are not comparable to those offered to the regular State employees in the division, with contract employees accruing less leave and fewer health care benefits. *House Bill 1464 (passed)* transfers all contractual employees of the Legal Services Division to regular positions in the Department of Human Resources to standardize benefits and meet the ongoing legal requirements of the division.

## Overtime Compensation for Correctional Facility Personnel

Generally, a law enforcement employee or a State Police cadet who works more than eight hours in a normal eight-hour workday is entitled to be paid at the rate of one and one-half times the employee's or cadet's regular hourly rate of pay for time worked in excess of eight hours.

*House Bill 1614 (failed)* would have excluded security personnel in correctional facilities who work a modified work schedule from time and a half overtime pay requirements. The bill would have been one component of a pilot program to allow employees to work shifts of up to 12 hours while maintaining a 40-hour workweek. The Governor's fiscal 2009 proposed budget included \$8.6 million in reductions to salary expenditures contingent on enactment of the legislation.

## Employment Categories and Protections

The Special Committee on State Employee Rights and Protections was established by resolution of the Legislative Policy Committee to examine termination of at-will employees in the State Personnel Management System. In its 2006 final report the committee found that the Governor's Appointments Office had directed an effort to replace at-will State employees, taking action that was arbitrary and inconsistent with improving government. In investigating these actions, the committee determined that portions of State law were ambiguous or inconsistent in establishing employee protections.

Chapter 592 of 2007, the State Employees' Rights and Protections Act, addressed many of the committee's recommendations. The legislation clarified State law, increased employee protections, and created a private right of action for political firings. The legislation also requires the Department of Legislative Services to review State personnel law to determine the number of at-will employees, special appointments, and management service employees in the Executive Branch; the rationale for designating the majority of employees in an agency as at-will; and the possibility of extending merit system protections. Findings and recommendations will be reported to the General Assembly by December 1, 2008.

*House Bill 813 (failed)* would have limited the types of positions that are considered special appointments or are otherwise classified as management or executive service positions within the State Personnel Management System, increasing the employment protections available to these individuals. Similarly, *House Bill 966 (failed)* would have required nonelected employees of the registers of wills to be classified in the skilled, professional, and management services in the State Personnel Management System.

## Pensions and Retirement

Legislation on pension and retirement issues in the 2008 legislative session related to investment policies, reemployment of retirees, and system membership and benefits.

### Investment Policies

*Senate Bill 214 (passed)*, an Administration bill, establishes conditions under which the State Retirement and Pension System must divest from companies doing business in either Iran or Sudan. The bill requires the Board of Trustees to notify any company whose shares are held in an actively traded separate account and that meets the definition of doing business in Iran or Sudan, that it is subject to divestment by the board. If, within 90 days after notice, a company does not provide evidence that it is no longer doing business in either country, or does not announce that it will release a plan within 60 days to cease doing business in those countries within a year, the board must divest its holdings in that company. However, the bill exempts companies that are not subject to the U.S. government's sanctions against Iran and Sudan and whose divestment cannot be executed for fair market value or greater. The bill requires the board to act in good faith and in a manner consistent with its fiduciary responsibilities in

implementing the bill's provisions. In addition, the bill prohibits the application of the bill if the United States Congress or President makes specified declarations regarding Iran or Sudan. The bill takes effect January 1, 2009.

*Senate Bill 606/House Bill 1277 (both passed)* require the State Retirement and Pension System, among other State agencies, to attempt to use minority business enterprise (MBE) investment management and brokerage firms to the greatest extent feasible and consistent with its fiduciary responsibilities. A more detailed discussion of these bills may be found under the subpart "State Agencies, Offices, and Officials" in Part C – State Government of this *90 Day Report*.

*Senate Bill 384/House Bill 481 (both passed)*, were sponsored by the Joint Committee on Pensions to make several changes to State law governing the investment of assets in the State pension trust fund. First, they repeal a 1.2 percent cap on fees paid to external managers who provide real estate and alternative investment management services. A 0.3 percent cap on fees paid to all other external asset managers remains in effect. Second, the bills repeal a requirement that all real estate transactions carried out by the Board of Trustees be approved by the Board of Public Works. Instead, those transactions must be approved by a majority of the Comptroller, Treasurer, and the Secretary of Budget and Management in their capacity as members of the Board of Trustees. Finally, the bills repeal archaic language limiting the board's investments in nondividend paying common stocks to 25 percent of the system's assets. That limitation has been rendered obsolete by the board's adherence to modern portfolio theory and the prudent investor standard.

## **Reemployment of Retirees**

*Senate Bill 564/House Bill 720 (both passed)* were sponsored by the Joint Committee on Pensions to address several issues related to the reemployment of State Retirement and Pension System retirees. First, they allow State judges receiving vested or normal service retirement benefits from either the Employees' Retirement System (ERS) or the Employees' Pension System (EPS) to suspend those benefits and earn credit in the Judges' Retirement System (JRS). This allows a judge to earn credit in the JRS while ensuring that the judge's spouse will receive survivor benefits from ERS/EPS should the judge die while serving on the bench. The bills also exempt a JRS retiree who is also receiving a service retirement benefit from ERS/EPS from an earnings limitation if the JRS retiree is temporarily assigned to serve on a State court. The bills require local school systems to reimburse the State Retirement and Pension System for the offset of pension benefits for retired teachers rehired by their former employers that result from late or nonreporting of reemployed retirees who are exempt from the offset. Finally, the bills require the Joint Committee on Pensions to study issues related to the reemployment of State retirees and submit a report to the General Assembly by December 31, 2008.

*House Bill 36 (passed)* exempts a JRS retiree from an earnings limitation if the retiree is employed as a faculty member with a public institution of higher education in the State. Under current law, judges are already exempt from the offset if they are employed by a community college.

*Senate Bill 326/House Bill 588 (both passed)* allow a Calvert County sheriff who is not otherwise eligible to participate in EPS to participate in the Calvert County Employees' Savings Plan. The savings plan is a defined contribution plan that provides a 5 percent employer contribution and requires employees to contribute 3 percent of their compensation.

### **Changes to System Membership**

Chapter 340 of 2006 included correctional dietary, maintenance, and supply workers in the Correctional Officers' Retirement System (CORS) as a condition of their employment but excluded correctional laundry officers. *Senate Bill 480/House Bill 554 (both passed)* require current correctional laundry officers and employees of Maryland Correctional Enterprises to transfer from EPS to CORS. These bills also make membership in CORS a condition of employment for all future employees in those positions. The bills expand the scope of the actuarial study commissioned every five years by the Joint Committee on Pensions to include a review of life expectancy of members of the various State pension plans.

Chapter 417 of 2006 granted Baltimore City Community College (BCCC) security personnel the power of police officers, if they obtained the necessary training and certification under State law. As a follow up to that upgrade, *Senate Bill 195 (Ch. 26)* includes future BCCC police officers in the Law Enforcement Officers' Pension System (LEOPS) as a condition of their employment. Current BCCC security personnel who have become police officers may elect to remain in EPS or transfer to LEOPS by December 31, 2008. The bill requires that BCCC's fiscal 2009 budget include funding to pay for the cost of the transfer from EPS to the LEOPS plan.

*Senate Bill 308/House Bill 986 (both passed)* allow current employees of the Town of Berwyn Heights to choose to become members of EPS by July 1, 2008. Current employees who choose to participate in EPS will receive EPS service credit at the rate of one-third of their past service credit with the town. Future town employees will be members of EPS as a condition of their employment.

### **Other Post Employment Benefits**

The General Assembly passed two pieces of legislation addressing the need to fund post employment benefits other than pensions for State and local government retirees and their families. In Maryland, those benefits consist primarily of partially subsidized medical, prescription, and dental insurance available to State and local retirees who meet specified service thresholds.

Chapter 433 of 2006 established the Blue Ribbon Commission to Study Retiree Health Care Funding Options to recommend a plan to the Governor and General Assembly to fully fund the liabilities stemming from the State's commitment to provide subsidized retiree health benefits. *Senate Bill 859/House Bill 1233 (both passed)* extend the commission's termination date from June 2009 to June 2010 and require the commission to prepare an interim report by

December 31, 2008. The bills also extend the deadline for submission of the final report from December 31, 2008, to December 31, 2009.

*Senate Bill 945/House Bill 1585 (both passed)* authorize local governments to contract with external asset managers to manage or invest funds designated for post employment benefits provided separately from a pension plan. The bills further authorize local governments to create pooled investment funds with separate accounts for each participating local government, and to remit funds for post employment benefits to the State Treasurer for investment in the Local Government Investment Pool. A more detailed discussion of these bills may be found under the subpart “Local Government – Generally” in Part D – Local Government of this *90 Day Report*.

### **Survivor Benefits**

*House Bill 725 (passed)* creates a new death benefit for State employees and teachers who are killed while performing their duties. In addition to a lump sum payment equal to the member’s accumulated pension contributions, which is already provided under current law, surviving spouses, minor children, or dependent parents will receive an annual allowance equal to two-thirds of the employee’s or teacher’s average final compensation. Also, the bill entitles surviving minor children and dependent parents of State employees to join the State’s subsidized health plan. The bill applies retroactively to any employee of the State Highway Administration who died on or after January 1, 2007.

*Senate Bill 488/House Bill 482 (both passed)* were sponsored by the Joint Committee on Pensions to repeal a supplemental survivor death benefit for spouses of retired State Police officers and replace it with an increase in the standard survivor benefit. The repealed supplemental benefit was tied to Social Security survivor benefits, but the benefits paid had grown larger than expected and thus endangered the pension plan’s tax-exempt status under federal law. Instead, the bills increased the standard survivor benefit from 50 percent to 80 percent of the retiree’s allowance.

### **Miscellaneous Bills Sponsored by the Joint Committee on Pensions**

*Senate Bill 422/House Bill 442 (both passed)* entitle a member of the State Police Retirement System or LEOPS who participates in the Deferred Retirement Option Program (DROP) to receive special or accidental disability benefits only if the member is injured or incapacitated after enrolling in DROP.

*Senate Bill 375/House Bill 472 (both passed)* authorize the Board of Trustees of the State Retirement and Pension System to adopt regulations that allow it to impose an administrative fee on any employer that does not provide enrollment paperwork for new employees in a timely fashion.

## General Assembly

### General Assembly Powers – Capital Leases

*Senate Bill 984/House Bill 1596 (both passed)* establish conditions that must be met before the Board of Public Works may approve any lease that:

- transfers ownership of the property to the lessee on or before the termination of the lease;
- allows the lessee to purchase the property below fair market value or for a fixed amount;
- is for a term that is 75 percent or more of the estimated useful economic life of the property; or
- has payments with a present value that is 90 percent or more of the fair market value of the property.

Under the bills, before the Board of Public Works may approve such a lease, either the General Assembly must approve the lease in the budget of the requesting agency, or the Capital Debt Affordability Committee must certify to the Governor and the General Assembly that the debt to be incurred by the lease may prudently be authorized.

## Annotated Code

### Code Revision – Economic Development Article

The General Assembly is nearing the completion of the long-term project to revise Maryland's entire code of statutory laws. The purpose of the Code Revision project is to reorganize codified 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 committees consisting of prominent members of the legal community prior to being introduced as bills.

*House Bill 1050 (passed)* creates a new Economic Development Article of the Annotated Code. It revises, restates, and recodifies the various laws of the State that pertain to the Department of Business and Economic Development (DEBD), its component parts and programs, and independent economic development units and programs.

The article consists of two divisions: Division I is derived primarily from Article 83A – Department of Business and Economic Development and Article 23 – Miscellaneous Companies. Division II is derived primarily from Articles 20A through 20D – Tri-County and Regional Councils; Article 41 – Governor – Executive and Administrative Departments; Article 43C – Maryland Health and Higher Educational Facilities Authority; Article 45A – Industrial Development; Article 78D – Baltimore Metropolitan Council; Article 83A – Department of

Business and Economic Development; the Financial Institutions Article; and the State Government Article.

*House Bill 1051 (passed)*, a companion bill to the revision, corrects cross-references to the new Economic Development Article that appear in other parts of the Annotated Code of Maryland.

### **Code Revision – Criminal Procedure Article Additions**

The Criminal Procedure Article was created through the Code Revision process in 2001. Afterwards, in allocating remaining unrevised provisions of the Annotated Code, a decision was made to assign additional areas to that existing revised article. *Senate Bill 37 (Ch. 15)* revises, restates, and recodifies in a nonsubstantive manner provisions applicable to:

- the Office of the State Prosecutor, including laws concerning the establishment of the office; the eligibility of individuals to be nominated and appointed to be the State Prosecutor; the establishment and membership of the State Prosecutor Selection and Disabilities Commission; the filling of vacancies in the office; the reprimand or removal of the State Prosecutor; the general powers and duties of the State Prosecutor; investigations, reports, and prosecutions of the office; the budget and staff of the office; and meetings with the Attorney General and State’s Attorneys;
- the Office of the State’s Attorney, including laws concerning the duties of the State’s Attorney; the subpoena power in a criminal investigation and the appointment of an interim State’s Attorney; the establishment of the State’s Attorneys’ Coordination Council; the establishment of the Office of the State’s Attorneys’ Coordinator; the duties of the coordinator; and the salary, expenses, staffing, and other matters regarding the State’s Attorneys for each county; and
- the Office of the Public Defender, including laws concerning the establishment of the Office of the Public Defender, office personnel, representation of indigent individuals, termination of representation, representation in federal court, duties and powers of the Public Defender, panel attorneys, privileged communications, eligibility for services, reimbursement for services, liens, the Board of Trustees of the Office of the Public Defender, regional advisory boards, reports of the Public Defender, and appropriations.

*Senate Bill 10 (Ch. 13)*, a companion bill to the revision, corrects cross-references to these additions to the Criminal Procedure Article that appear in other parts of the Annotated Code of Maryland.

### **Estates and Trusts Article – Dedicated to Roger Redden**

One of the founders and guiding forces of Maryland’s Code Revision process, Roger D. Redden, Esq., passed away on January 29, 2008. In recognition of his contributions to the

revision of the Annotated Code, and of the Estates and Trusts law in particular, *House Bill 1326 (passed)* dedicates the Estates and Trusts Article to Mr. Redden.

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

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

These corrective measures are the Annual Corrective Bill, *Senate Bill 601 (Ch. 36)* and the Annual Curative Bill, *Senate Bill 620 (Ch. 37)*, respectively. Neither enactment contains any substantive change.

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

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

In 2007, anticipating the substantial demands on housing and infrastructure from the influx of military and federal jobs under the Base Realignment and Closure (BRAC) process, the General Assembly created the Joint Committee on Base Realignment and Closure. The joint committee is composed of six senators and six delegates, and it oversees and participates in the development of systems and processes that fast-track the approval of transportation infrastructure, water and sewer infrastructure, State and local planning processes, affordable housing options, education facilities, and health care facilities and infrastructure.

*Senate Bill 39/House Bill 152 (both passed)* enhance the joint committee by increasing its membership to eight senators and eight delegates.

#### **Joint Technology Oversight Committee**

*House Bill 724 (failed)* would have renamed and expanded the duties of the Joint Technology Oversight Committee. The committee's jurisdiction would have included studying and advising the General Assembly on issues relating to information technology and biotechnology.

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

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



### **Capital Punishment**

*Senate Bill 614/House Bill 1111 (both passed)* create the Maryland Commission on Capital Punishment, which will include two senators and two delegates among its members. The commission will study all aspects of capital punishment as currently and historically administered in the State and will issue a final report on or before December 15, 2008.

### **Heritage Language Skills**

Noting that knowledge of world language skills is increasingly important in national security, defense, education, business, and international trade, *Senate Bill 506/House Bill 610 (both passed)* establish a Task Force on the Preservation of Heritage Language Skills in Maryland. The task force will include one senator and one delegate among its members. It will report its findings by January 1, 2009, and continue in existence until July 31, 2009.

### **Impact of Immigrants**

Maryland is a major destination for immigrants, with over 20,000 legal immigrants coming to the State each year. *House Bill 1602 (passed)* creates the Commission to Study the Impact of Immigrants in Maryland, which will study an assortment of issues relating to immigration and report its findings by January 1, 2011. The commission will have two senators and two delegates in its membership.

### **Education of Military Children**

It has been noted that most children of career military personnel will be in six to nine different school systems from kindergarten through grade 12. These transfers frequently create bureaucratic problems that can disadvantage the academic performance of military children. The Task Force on Educational Issues Affecting Military Children is created by *Senate Bill 457/House Bill 784 (both passed)* to study the situation and make recommendations to ease the transition of children of military families to Maryland schools. The task force has one senator and one delegate among its members and will report its findings by December 1, 2008.

### **Financial Literacy**

*Senate Bill 533/House Bill 1242 (both passed)* establish a Task Force to Study How to Improve Financial Literacy in the State. The task force will include two members of the Senate and two members of the House of Delegates. The task force is charged with studying the current ability of individuals to understand basic financial concepts, studying the problems created by a lack of financial literacy or knowledge, and making recommendations regarding how to address these problems. The group will also assess the utility of requiring financial literacy education as part of primary and secondary education. A report of the task force's findings will be issued by December 1, 2008.

### **Student Physical Fitness**

In recognition of the “epidemic of obesity” in America, and of the many benefits of physical activity, *Senate Bill 955 (passed)* creates the Task Force on Physical Fitness in Maryland Public Schools. The task force has one senator and one delegate among its members and will report its findings by November 20, 2008.

### **Students Subject to Multiple Suspensions**

During the 2006-2007 school year, 74,518 students were suspended from school a total of 131,629 times. This represented 9 percent of the student population. Approximately 28,431 students, or 38 percent of all suspended students, were suspended multiple times. *House Bill 139 (passed)* creates a Task Force to Study Issues Relating to Students Subject to Multiple Suspension, which will focus on the feasibility of mandating that school systems establish student services teams to provide case management for such students. The task force, which includes one legislative member from each chamber, will report its findings on or before January 15, 2009.

### **Disciplinary Proceedings by Health Occupation Boards**

Although *Senate Bill 764/House Bill 811 (both passed)* make various substantive changes in the law relating to the State Board of Dental Examiners, the bills also create a Task Force on the Discipline of Health Care Professionals and Improved Patient Care, which will study health occupations generally. The task force includes in its membership one senator and one delegate. It will report its findings by December 1, 2008.

### **Minority Business Enterprise**

*Senate Bill 847 (passed)* establishes a Task Force on the Minority Business Enterprise Program and Equity Investment Capital, which will include two members of the Senate and two members of the House of Delegates. The task force will study how to facilitate the acquisition of investment equity capital by minority business enterprises in Maryland in a manner that allows minority business enterprise owners to retain operational control of the business while providing adequate protection to equity investors. The task force will report its recommendations by December 1, 2009.

### **Motor Vehicle Towing**

*House Bill 684 (passed)* creates the Task Force to Study Motor Vehicle Towing Practices in the State. The task force, which has one legislative member from each chamber, will study several aspects relating to the towing of vehicles that are improperly parked or abandoned on private property, including consideration of a State program of licensure or registration for the towing industry. The task force will report its findings by the end of 2008.

### **Long-term Care Facilities**

As the baby-boom generation ages, investment in long-term care facilities is seen as an increasingly lucrative business venture. In recent years, private investment firms have bought some of the nation's largest nursing home chains, including the Carlyle Group's \$6.3 billion acquisition of HCR Manor Care, the nation's largest nursing home chain, with 15 skilled nursing facilities, 9 assisted living facilities, and 3 home care and hospice offices in the State.

*House Bill 807 (passed)* establishes the Task Force to Study Financial Matters Relating to Long-term Care Facilities. The membership of the task force includes two senators and two delegates. It will present an interim report of its findings by July 1, 2009 and a final report by June 1, 2010.

### **Procurement of Health and Social Services**

State contracts for the procurement of health and social services have either been exempted from procurement laws or allowed to be handled through a noncompetitive negotiated award process. In order to evaluate this process, and the costs and benefits associated with it, *Senate Bill 686/House Bill 527 (both passed)* create a Task Force to Study the Procurement of Health and Social Services by State agencies. The task force will include two members of the Senate and two members of the House of Delegates. It will submit a preliminary report by November 30, 2008, and a final report by November 30, 2009.

### **Gypsy Moth Infestation**

Since 1980, gypsy moth caterpillars have defoliated more than one million acres in the State. The Task Force to Study Statewide Gypsy Moth Infestation is created under *Senate Bill 920 (passed)* to make recommendations concerning the most effective means of addressing this problem. The task force includes one legislative member from each chamber and will report its findings on or before August 31, 2009.

### **Title Insurance Industry**

Title insurance regulation and the title insurance industry have come under heightened scrutiny recently, due in large part to the significant rise in property foreclosures. Much of the concern regarding title insurance stems from cases in which title insurers have utilized illegal sales tactics. While property purchasers are free to choose their own title insurance provider, in most cases purchasers defer this decision to their real estate agent or mortgage lender. This has led to situations in which title insurers have sometimes provided kickbacks to these decision makers or developed other conflicts of interest.

A Commission to Study the Title Insurance Industry in Maryland is established by *Senate Bill 61/House Bill 600 (both passed)*. The commission will include three members of the Senate and three members of the House of Delegates. It will study various aspects of the industry and report its findings by December 15, 2009.

### **Rosecroft Raceway**

The future of Rosecroft Raceway in Prince George's County, a standardbred track, has been uncertain in recent years, and it has been proposed that thoroughbred racing be brought to the track. Under *House Bill 1506 (passed)*, a Task Force to Study Thoroughbred Horse Racing at Rosecroft Raceway is created. The task force will include one legislative member from each chamber and will report its findings on or before December 31, 2008.

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

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

This session, the termination dates on the following regulatory agencies were extended:

- *Senate Bill 463 (passed)* provides for the continuation of the State Board of Morticians and Funeral Directors until 2018. The bill also makes several substantive changes in the board's law, which is discussed in Part J – Health Occupations of this *90 Day Report*.
- *Senate Bill 502/House Bill 459 (both passed)* extend the termination date of the State Board of Professional Counselors and Therapists by 10 years to 2019 and reorganize the statutes relating to counseling and therapy. The substantive changes are discussed in Part J – Health Occupations of this *90 Day Report*.
- The State Board of Law Examiners is extended until 2020 under *Senate Bill 514 (passed)*. The bill also raises the maximum fee that the board may set for individuals taking the bar exam from \$150 to \$250 in fiscal 2009 and to \$400 in fiscal 2010 and thereafter.