

## Part C

# State Government

---

### State Agencies, Offices, and Officials

#### State Agencies

##### Attorney General – Representation

*Senate Bill 667/House Bill 289 (both passed)* clarify the role of the State Attorney General regarding representation of State government officers and units. The bills specify that the Attorney General is the legal advisor for each government officer and unit of State government and is required to perform all legal work for the State. Outside counsel may be hired, however, if a law expressly so provides or the Attorney General grants prior approval. The bills do not alter the current statutory exceptions to the Attorney General’s authority.

##### Advisory Councils, Committees, and Commissions

*Maryland Youth Advisory Council:* The Maryland Youth Advisory Council was established in 2008 to inform the Governor and the General Assembly of issues concerning youth. The duties of the council include recommending one legislative proposal each year, conducting public hearings on the issues of importance to youth, conducting public awareness campaigns, and submitting a report on its activities by June 1 of each year. *Senate Bill 463/House Bill 485 (Chs. 69 and 70)* expand the term of youth members of the Maryland Youth Advisory Council from nine months to one year in order to encompass the period of summer vacation. The Maryland State Department of Education will be required to allow a youth member up to four lawful absences from school per school year if the youth member is attending to council business. The terms of the youth members currently serving on the council are extended to one year.

*Maryland Commission on Women:* In 1971, the General Assembly established the Maryland Commission on Women. The commission advises State government on and serves as a statewide resource for social, political, and economic opportunities for women. *Senate Bill 149/House Bill 1153 (Chs. 34 and 35)* alter the appointment process for members of the commission. The members will now be appointed by the Governor with the advice and consent

of the Senate. Previously, the President of the Senate and the Speaker of the House had a role in the selection of members. Approximately one-half of the members are appointed from among the nominations offered by organizations whose interests relate to woman. The remaining appointments are made from among applicants who apply on their own behalf. The Governor has the authority to either reappoint or replace members who were appointed by the Speaker or the President and whose terms expire in 2009, 2010, and 2011.

### **Reorganization**

*Senate Bill 764/House Bill 1146 (both failed)* would have reorganized emergency services in the State. The bills would have established the Department of Emergency Services as a principal department of State government. It would have included:

- the Maryland Emergency Management Agency;
- the Emergency Medical Services System;
- the Charles McC. Mathias, Jr., National Study Center;
- the R. Adams Cowley Shock Trauma Center;
- a licensing program for ambulance services;
- the State Board of Paramedics;
- the Automate External Defibrillator Program; and
- the Maryland Fire and Rescue Institute.

The State Board of Paramedics would also have been established. The bills would have abolished the Maryland Institute for Emergency Medical Services Systems and the State Emergency Medical Services.

### **Miscellaneous**

*House Bill 457 (Ch. 141)* repeals the requirement that the principal departments and other Executive Branch units submit an organizational chart to the General Assembly each year. The different departments and units are now required to post the organizational chart, including a description of the department or unit and each subunit and the name and title of each individual who heads a subunit, on the department or unit web site.

Each State agency is required to have a recycling plan. By July 1, 2010, under *House Bill 595 (passed)*, the plan must include a system for recycling aluminum, glass, paper, and plastic. It also must include the placement of collection bins in State-owned or State-operated buildings in locations where it is practical and economically feasible. The plans must be implemented by each agency by January 1, 2012.

## The Military and Veterans

*House Bill 1473 (passed)* clarifies, reorganizes, and updates various provisions of law related to the State’s organized militia. Changes related to the Maryland Defense Force (MDDF) pertain to the powers of the Adjutant General, the mission of MDDF, the qualifications for membership, and the oaths taken by members. Among the revisions, *House Bill 1473* clarifies that the Adjutant General is responsible for appointing and removing officers and generally overseeing MDDF. The legislation also specifies that MDDF may only be drafted into the military service of the United States by the President of the United States and specifies the circumstances under which the enlistment period may be extended.

*House Bill 1561 (passed)* establishes the Maryland Veterans Trust Fund as a special nonlapsing fund which is administered by the Secretary of Veterans Affairs. The money in the fund is to be used to make grants and loans to veterans and their families, public and private programs that support veterans and their families, and to any other programs that the Secretary considers appropriate. The money is also to be used to pay the costs of administering the fund. The fund consists of gifts and grants that are given to the Department of Veteran Affairs.

The Commission on the Establishment of a Maryland Women in Military Service Monument was reestablished by *Senate Bill 367/House Bill 944 (both passed)*. The bills altered the duties to require the commission to monitor compliance with the recommendations of the commission and to coordinate and monitor the effort to build a Maryland Women in Military Service Monument. *Senate Bill 367/House Bill 944* also authorize the commission to enter into memoranda of understanding with government entities regarding the funding, design, construction, or placement of the monument.

*Senate Bill 501/House Bill 907 (both failed)* would have required the Governor to withhold approval of the transfer of the National Guard to federal control unless the U.S. Congress adopts explicit authorization for the use of military force or a declaration of war. The Governor would have been required to request the return of the National Guard to the State if an authorization for the use of military force expired or was no longer valid.

## Interstate Compacts

In October 2008, the U.S. Congress passed legislation that authorized the appropriation of \$1.8 billion over 10 years to the Washington Metropolitan Area Transit Authority (WMATA). The legislation conditioned the distribution of funds on certain amendments being made to the WMATA compact and matching funds being allocated by Maryland, Virginia, and the District of Columbia. *Senate Bill 915 (Ch. 111)* amends the WMATA compact and mandates the appropriation of funds to meet the requirements of the federal legislation. For a more detailed discussion of this issue, see the subpart “Transportation” within Part G – Transportation and Motor Vehicles of this *90 Day Report*.

## State Designations

The negro baseball leagues were established at a time when African American players were unable to play major-league professional baseball due to racism and Jim Crow laws. The golden age of the leagues began in 1920, with the last league disbanding in the 1960s. Baltimore was home to two negro league teams that won several pennants and championships. *Senate Bill 248/House Bill 84 (Chs. 46 and 47)* direct the Governor to annually proclaim the second Saturday in May as Negro Baseball League Day.

*House Bill 439 (failed)* would have repealed the Advisory Committee on the Naming of State Facilities and Bridges which has met only twice since it was established in 2005. As amended by the Senate, the legislation also would have authorized the State Archivist, upon request or at his discretion, to review, evaluate, and make recommendations to the General Assembly regarding State designations and commemorative days, weeks, and months.

## Miscellaneous

### American-made Flags

*Senate Bill 7/House Bill 7 (Chs. 7 and 8)* require flags of the United States and the State of Maryland that are purchased with State money and are displayed on State property to be manufactured in the United States. The Department of General Services already exclusively purchases American-made flags, so *Senate Bill 7/House Bill 7* codify existing practice.

### State Grantee Database

Information concerning for-profit or nonprofit entities and associations that are grantees of at least \$50,000 in State aid must be reported by the State agencies providing the grants to the Department of Budget and Management under *Senate Bill 556/House Bill 1192 (both passed)*. A report must provide:

- the name, address, and zip code of each grantee that received State aid from the grantor during the previous fiscal year;
- the amount of any State aid provided to the grantee; and
- a description of the State aid provided to the grantee.

The information will be available to the public on a web site operated by the Department of Information Technology. The web site must allow an individual to search the information by name of grantee, the name of grantor, and the zip code of any grantee that received State aid. *Senate Bill 556/House Bill 1192* also authorize the Office of Legislative Audits to conduct an audit or review of a grantee.

### **Lobbying by Former Officials**

A former State official or public official of the Executive Branch would have been prohibited from assisting or representing another party for compensation in a matter that is the subject of legislative action for one year after the official leaves employment under *House Bill 475 (failed)*. The prohibition would not have applied to a former official who is representing a municipal corporation, county, or State governmental entity.

## **Elections**

### **Early Voting Implementation**

Over the past several election cycles, the number of voters across the United States who cast their votes prior to election day by early and/or absentee voting has increased as states enact laws and implement policies that afford more opportunities for voters to do so. Over 30 states offer no-excuse, in-person early voting in some form whether at designated early voting sites or limited to election offices or other locations. A review of the 2008 general election, by the Pew Center on the States' *electionline.org* (written in December 2008), indicated that preliminary data suggested nearly 30% of votes – an estimated 38 million – were cast before election day.

Legislation implementing early voting was enacted in Maryland in 2006 (Chapters 5 and 61) but later struck down by the Maryland Court of Appeals as unconstitutional. The legislation would have allowed for a five-day early voting period prior to primary and general elections and would have allowed early voters to vote at any early voting polling place (three locations in the State's larger counties, and one in all other counties) in the voter's county of residence.

After the Court of Appeals struck down the early voting laws in 2006, Chapter 513 was adopted in the 2007 session, which proposed a constitutional amendment that would authorize the enactment of legislation providing for early voting during the two weeks immediately preceding an election, on no more than 10 other days prior to election day. Chapter 513 also specified that the provisions of Chapters 5 and 61 of 2006 that had allowed for early voting would not take effect if the constitutional amendment became effective and that applicable provisions of the Annotated Code of Maryland containing the voided laws were repealed. The constitutional amendment was subsequently approved by the voters at the 2008 general election, and bills to newly implement early voting were introduced in the 2009 session.

*House Bill 1179 (passed)* establishes an early voting period, for the 2010 gubernatorial primary and general elections, from the second Friday before the primary or general election through the Thursday before the election, excluding Sunday. On each day, "early voting centers" are open between 10 a.m. and 8 p.m. The bill specifies a different early voting period for the 2012 presidential primary and general elections, from the second Saturday before the primary or general election through the Thursday before the election, including Sunday. For those elections, early voting centers are open between 10 a.m. and 8 p.m. on the Saturday and the Monday through the Thursday during the early voting period, and between 12 noon and 6 p.m. on the Sunday during the early voting period.

Under the bill, the number of early voting centers in a given county depends on the number of registered voters in that county. A county with fewer than 150,000 registered voters has one early voting center; a county with more than 150,000, but fewer than 300,000 registered voters, has three early voting centers; and a county with more than 300,000 registered voters has five early voting centers. A voter may vote at any early voting center in a voter's county of residence. The State Board of Elections (SBE), in collaboration with the local board of elections in each county, designates each early voting center, and SBE and each local board must, beginning 30 days prior to each early voting period, undertake steps to inform the public about early voting and the location of early voting centers in each county.

General fund expenditures may increase by \$2.5 million to \$3.2 million over the course of fiscal 2010 and 2011 to implement early voting for the 2010 gubernatorial elections, with certain costs not yet determined. Some of those costs may be borne in part by local boards of elections. Local government expenditures may increase by \$1 million in jurisdictions with five early voting centers, \$.6 million in jurisdictions with three early voting centers, and \$.2 million in jurisdictions with one early voting center, with potential additional costs being incurred (including any portion of those accounted for above as State general fund expenditures that may be borne by local boards) that are not yet determined.

## **New Voting System**

### **Background**

Concerns about the accuracy and security of the State's Direct Recording Electronic (DRE) touch screen voting machines led to enactment of legislation in 2007 mandating a new voting system. Chapters 547 and 548 of 2007 require SBE to certify a voting system that provides a voter-verifiable paper record for use in each election occurring on or after January 1, 2010. A "voter-verifiable paper record" includes a paper ballot to be read by an optical scan voting machine. Chapters 547 and 548 also require a certified voting system to provide access to voters with disabilities in accordance with the federal Voluntary Voting System Guidelines (VVSG) adopted under the Help America Vote Act.

The U.S. Election Assistance Commission (EAC) administers a voting system testing and certification program in which independent laboratories are accredited by EAC to test voting systems to determine whether they comply with the VVSG. To date, the EAC has certified only one voting system as complying with the VVSG. That voting system, however, does not provide a voter-verifiable paper record. It is unclear if, or when, a voting system that produces a voter-verifiable paper record and meets the accessibility standards of the VVSG will become available.

SBE issued a request for proposals in January 2009 for procurement of optical scan voting machines and ballot marking devices that allow the disabled to mark a paper ballot. However, SBE indicated that without a change in the certification requirements in State law, it would be unable to enter into a contract and would not be able to meet the 2010 deadline for implementation of an optical scan voting system.

**“Hybrid” Voting System: *House Bill 893 (passed)*** allows the State to proceed with procurement of a voting system that produces a voter-verifiable paper record for the 2010 elections. The bill specifies certain alternative certification standards that apply if there is no voting system commercially available that satisfies all of the requirements of current law. The bill authorizes SBE to implement temporarily a hybrid voting system which would combine optical scan voting machines and the State’s current DRE touch screen voting machines, which do not provide a voter-verifiable paper record. The new optical scan voting system would not be required to comply with the VVSG or be examined by a testing laboratory approved by EAC.

Under the hybrid voting system, voters would have the option of casting a paper ballot, but at least one DRE voting machine would also be available in each polling place. The DRE machine would provide access to voters with disabilities but also be available for use by all voters. When SBE determines that a voting machine is available that satisfies the accessibility requirements of the VVSG, produces a voter-verifiable paper record, and is compatible with the voting system in use in polling places, it must certify and deploy the machine within two years and discontinue the use of any voting machines that do not provide a voter-verifiable paper record. The bill terminates following the first election when voting machines are used that produce a voter-verifiable paper record and meet the accessibility requirements of the VVSG for voters with disabilities.

### **Fiscal Impact**

As introduced by the Governor, the fiscal 2010 budget included approximately \$5.8 million for a new voting system. That amount represented \$2.9 million in State general funds and \$2.9 million in special funds from local election reform payments. State law requires that the cost of acquiring and operating the statewide voting system be split evenly between the State and the counties. The estimated total cost of a new optical scan voting system is \$39 million, with payments extending from fiscal 2009 to 2015.

The General Assembly amended the fiscal 2010 budget to reduce the amount of State general funds available for the new voting system by \$2 million, contingent on enactment of ***House Bill 101 (passed)***, the Budget Reconciliation and Financing Act of 2009, which authorizes the replacement of those funds with an equal amount from the Fair Campaign Financing Fund (further discussed below under Campaign Finance). The Fair Campaign Financing Fund exists to provide public campaign financing for qualifying gubernatorial candidates.

If a hybrid voting system is implemented under ***House Bill 893***, State and local expenditures may decrease. This is due to the foregone cost of purchasing ballot marking devices for the disabled, who would instead use the State’s current DRE voting machines. State general fund expenditures may decrease by approximately \$478,500 in fiscal 2010 and an average of \$1.2 million in subsequent fiscal years, through fiscal 2014. Local government expenditures may decrease by a similar amount. The estimate of decreased expenditures does not account for any associated effect on voting system services costs resulting from using the DRE machines instead of procuring ballot marking devices. The expenditure reductions may



also be offset or eliminated in the future if accessible voting machines that meet the requirements of the VVSG are acquired and deployed under the bill. Additional administrative costs arising from the need to administer elections using two voting systems also may offset expenditure reductions for local governments under this bill.

## **Campaign Finance**

### **Public Financing of Campaigns/Campaign Contributions**

According to the National Conference of State Legislatures (NCSL), limits on campaign contributions, public financing of election campaigns, and disclosure of campaign finance activity are the main avenues by which states seek to regulate campaign finance. Contribution limits vary widely from state to state and from office to office within a state, according to NCSL, with five states placing no limits on contributions. NCSL indicates that half the states operate programs that provide public funds to candidates or political parties (or both), including those that provide funds directly to individual candidates, those that provide funds to political parties, and those that provide tax incentives to individuals who make political contributions.

Public financing of campaigns received considerable attention during the 2009 session. As discussed further below, *Senate Bill 663 (failed)*, as amended by the Senate Education, Health, and Environmental Affairs Committee, would have established a system of public campaign financing for General Assembly members, increased existing private campaign contribution limits, and authorized county governments to enact laws to regulate public campaign finance activity for county elective offices.

**Public Financing:** Maryland law currently provides for public financing of gubernatorial campaigns, but with the exception of the 1994 gubernatorial race, the program has not been used. A 2004 report by the Study Commission on Public Financing of Campaigns in Maryland found that the gubernatorial Fair Campaign Financing Fund, from which public contributions are distributed, had rarely reached a functional level and that the expenditure limit that participating gubernatorial tickets are subject to under the law is more than likely “far below the minimum amount of funds needed to launch a credible campaign effort[.]”

In March 2009, the Fair Campaign Financing Fund had a balance of \$5.2 million, capitalized by contributions made to the fund via a tax add-on that appears on State personal income tax returns. The tax add-on generated an average of \$119,000 annually for the fund from fiscal 2006 to 2008. The expenditure limit under the public financing law, which applies separately to each primary and general election, is equal to 30 cents (adjusted annually beginning January 1, 1997, in accordance with the Consumer Price Index) multiplied by the population of the State. Thus, the per election expenditure limit for participating gubernatorial tickets in the 2006 elections was \$2.1 million.

The amended *Senate Bill 663* would have repealed the gubernatorial Public Financing Act and established a system of public financing for General Assembly candidates. Under the bill, the system would have first applied to 2014 General Assembly campaigns. A candidate wishing to participate in the public financing system would have been required to collect a



specified amount of qualifying contributions from registered voters in the candidate's legislative district (or subdistrict) to become eligible for a public contribution. In exchange for public funding, a participating candidate would have been subject to specified expenditure limits; however, the participating candidate would be eligible for a supplemental public contribution in the event contributions received or expenditures made by an opposing nonparticipating candidate exceeded the expenditure limit.

To ensure at least a “working balance” for the proposed General Assembly public financing program, under the bill the balance of the money in the gubernatorial Fair Campaign Financing Fund would have been transferred to the Public Election Fund for General Assembly candidates and a tax check-off system would have been established to allow individuals filing personal State income tax returns to direct \$5 of the individual's State tax liability to the Public Election Fund to support public financing for General Assembly elections.

**Contribution Limits:** The amended *Senate Bill 663* also would have increased the contribution limits that persons may make to campaigns. Under current State law, over a four-year election cycle a person generally may not give aggregate contributions of more than \$4,000 to any one campaign finance entity or more than \$10,000 to all campaign finance entities. These limits were set in 1991. The bill would have increased to \$4,400 the aggregate amount that could be contributed to any one campaign finance entity and to \$15,000 the amount that could be contributed to all campaign finance entities in a four-year election cycle. The bill would also have increased from \$6,000 to \$6,600 the limit on the cumulative amount of transfers that a campaign finance entity may make, directly or indirectly, to any one other campaign finance entity.

**Local Government Regulation of Public Campaign Finance Activity:** Finally, the amended *Senate Bill 663* would have granted counties throughout the State the authority to enact laws to regulate public campaign finance activity for county elective offices. A system for public campaign finance activity established by a county, however, would have been required to be regulated in accordance with State law by SBE.

### **Late Filing of Affidavits**

Campaign finance entities generally must file campaign finance reports at various times prior to and after primary and general elections in which they participate and annually on the third Wednesday in January. The reports must contain information required by SBE with respect to all contributions received and all expenditures made by or on behalf of the campaign finance entity during a reporting period. A campaign finance entity that has not raised or spent a cumulative amount of \$1,000 or more since the establishment of the campaign finance entity, or since the filing of its last campaign finance report, may file an affidavit to that effect instead of a full campaign finance report. However, under current law campaign finance entities have to file a full campaign finance report if a filing deadline is missed and may not file an affidavit late. *House Bill 1395 (passed)* allows campaign finance entities to file an affidavit late, subject to late filing fees.

## Procurement

Most of the procurement legislation passed during the 2009 legislative session related to the State's minority business enterprise (MBE) program; several bills facilitate the participation of minority-owned firms as MBEs in State procurement and modify reporting requirements. Other successful bills address apprenticeship requirements on public works projects and miscellaneous procurement procedures and purchasing requirements.

### Minority Business Enterprise Program

*Senate Bill 611/House Bill 389 (both passed)* prohibit a prime contractor from falsely including an MBE in a bid or proposal for a State procurement and require the Governor's Office of Minority Affairs (GOMA) to operate a fraud hotline that may be used to report violations. Among other requirements, a prime contractor must ensure that MBEs included in a bid or proposal actually perform services under the contract.

*Senate Bill 489/House Bill 471 (both passed)* require that the personal net worth cap for business owners that determines eligibility for the State's MBE program, currently \$1.5 million, be adjusted annually according to the Consumer Price Index and exempt up to \$500,000 of retirement savings plans from the calculation of personal net worth. *Senate Bill 211/House Bill 641 (both passed)* allow a woman-owned business that is owned by a member of a racial or ethnic minority group to be certified as both a woman-owned business and as a business owned by a member of a recognized racial or ethnic minority group under the MBE program. The legislation also allows a dual-certified firm to participate in any given State procurement as either a woman-owned business or as a business owned by a member of a racial or ethnic minority group, but not both.

*Senate Bill 568 (passed)* requires the Maryland Department of Transportation to include in its directory of certified MBEs a list of MBEs that are no longer qualified because the personal net worth of one or more of an MBE's owners exceeds the statutory cap or because the MBE no longer qualifies as a small business under federal guidelines. *House Bill 1297 (passed)* requires the Board of Public Works to adopt regulations that promote and provide for the counting and reporting of MBEs as prime contractors. The bill also requires that annual MBE reports prepared by GOMA to include information on the prevalence of MBEs as prime contractors. *Senate Bill 946/House Bill 1336 (both passed)* require State procurement units to submit copies of their annual MBE utilization reports to the General Assembly's Joint Committee on Fair Practices.

### Public Works Projects

*House Bill 644 (passed)* establishes a State Apprenticeship Training Fund and requires contractors and some subcontractors who work on public works contracts that are subject to the prevailing wage law to either participate in an apprenticeship training program, make payments to a registered apprenticeship program or to an organization that operates a registered program, or contribute to the fund. Payments made to apprenticeship programs or organizations that operate the programs must be used only to support the programs and will be subject to auditing

requirements. The State fund must promote preapprenticeship programs and other workforce development programs in public secondary schools. Contributions to the State fund are expected to be approximately \$200,000 in the first year and decline gradually thereafter as more contractors opt to participate in apprenticeship programs rather than contribute to the fund.

### **Procurement Procedures and Purchasing Requirements**

**House Bill 533 (passed)** promotes intergovernmental cooperative purchasing by requiring State Executive Branch agencies and local governments to facilitate participation by State and local agencies and nonprofit organizations in service and supply contracts. However, contracts for capital construction and improvements, as well as contracts valued at less than \$100,000 are exempt. Moreover, State and local governments may exempt any contract for which they determine that intergovernmental purchasing (1) is not in their best interest; (2) undermines the contract's timing or effect; or (3) interferes with the ability to meet MBE or other related goals.

**Senate Bill 187/House Bill 124 (both passed)** do not allow State procurement units to “bundle” a procurement, limit the number of competitive bidders or offerors, or limit participation to a predetermined group of bidders or offerors for the purpose of precluding or limiting the participation of MBEs or small businesses in State procurement. Bundle means the consolidation of two or more activities that were previously performed under separate contracts into one contract that may be too large to be accessible to MBEs or small businesses.

**Senate Bill 132/House Bill 91 (both passed)** exempt from most of the requirements of the State procurement law any procurement by the Department of General Services (DGS) for the renovation of a structure built during the 18<sup>th</sup> or 19<sup>th</sup> century and listed in or eligible to be listed in the National Register of Historic Places. The Maryland Historical Trust estimates that approximately 20 State-owned buildings under DGS authority could be subject to this procurement exemption, among the most significant of which is the State House.

**Senate Bill 7/House Bill 7** require that United States and State flags displayed on State property and purchased with State funds be made in the United States. For a further discussion of Senate Bill 7 or House Bill 7, see the subpart “State Agencies, Offices, and Officials” within Part C – State Government of this *90 Day Report*.

## **Personnel**

### **Impact of Budget Actions on State Employees**

In fiscal 2010, State employees will be impacted by the State's deteriorating fiscal condition in several ways. Due to budgetary constraints, State employees will not receive merit increases, cost-of-living increases, or deferred compensation matches in fiscal 2010. However, under a recently proposed change to regulations, same sex domestic partners of State employees and their dependents may be covered under the State's health insurance plan.

## State Employee Labor Relations

During the 2009 legislative session, a number of bills were introduced that affect labor relations with State employees.

### Collective Bargaining – Service Fees from Nonunion Members

*Senate Bill 264 (passed)*, also known as “The Fair Share Act,” changes the current law so as to authorize the State to collectively bargain with the exclusive representative of a bargaining unit for service fees from State employees who are not members of that exclusive representative. An employee who has religious objections to paying the service fee will be allowed instead to pay an amount not to exceed the service fee to a charitable organization. The bill does not apply to the State’s public four-year higher education institutions or Baltimore City Community College.

### Innovative Idea Awards Program

The State’s Innovative Idea Awards Program rewards State employees who propose ideas that save the State money, increase revenue, improve the quality of service, or otherwise significantly benefit the State. Before awards are granted, they must be reviewed by a review committee in each principal unit of State government. *House Bill 461 (passed)* requires half of the members of a principal unit’s review committee to be selected from the exclusive representatives, if any exist. The review committee must be consulted in the submission of ideas to the Governor’s Award Panel. The bill also specifies that an employee may submit an innovative idea by application or through the employee’s supervisor.

### At-will Employment

The State Employee’s Rights and Protections Act of 2007 required the Department of Legislative Services (DLS), with the assistance of the Department of Budget and Management, the Maryland Department of Transportation, and State employee labor unions, to study at-will employment and make recommendations for legislative and administrative changes to the State’s personnel systems. The Department of Legislative Services completed the study in December 2008 and issued a report. *House Bill 735 (passed)* implements many of the recommendations of the report.

The bill repeals the automatic at-will status of a number of groups of employees throughout State government, including the Department of Business and Economic Development, the State Department of Education, and several health-related commissions. In addition, the measure limits the number of special appointment positions in the Office of the Attorney General that may be filled with regard to political affiliation, belief, or opinion. Special appointment and at-will positions in the executive and management services affected by the bill will remain at-will until they become vacant.

The bill allows for flexibility in recruiting for certain skilled and professional service positions in the State Personnel Management System. It also repeals the Legislative Joint Committee on Fair Practices and establishes in its place the Joint Committee on Fair Practices and State Personnel Oversight. The new joint committee has oversight of employment policies and personnel systems in the Executive Branch of State government, matters of equal employment opportunity policies and practices in State government, and certain procurement practices.

The Secretary of Budget and Management is required under the bill to compile a report similar to the federal *Plum Book* every four years. By December 31 of each gubernatorial election year, the Secretary of Budget and Management must submit a report to the Governor and the Presiding Officers of the General Assembly on the total number of individuals employed with regard to political affiliation, belief, or opinion in the State.

Finally, the bill requires the Secretary of Budget and Management, in consultation with department secretaries and agency heads, to evaluate all skilled service and professional service positions considered special appointments to determine whether these positions should continue to be considered special appointments. A report on the evaluation is due January 1, 2012.

### **Benefits for Emergency Responders**

*Senate Bill 177/House Bill 787 (both passed)* provide hazardous material response team employees of the Department of the Environment with the same death benefit that other public safety employees qualify for in the event they are killed in the line of duty. The bills define hazardous material response team employees as individuals who are on call 24 hours a day to provide emergency response to a discharge of oil or a release of hazardous material or other emergency response activity.

*Senate Bill 711 (passed)* requires the Secretary of Budget and Management to provide an option to purchase up to \$200,000 of additional life insurance coverage to State employees who fly in a helicopter or scuba dive in the course of their employment with the State or, as a result of their employment with the State, face a significant likelihood of receiving a less favorable life insurance rating than other State employees. The bill also authorizes the Secretary of State Police and the Secretary of Budget and Management to award death benefits and funeral expenses on behalf of active police employees in good standing with the Department of State Police who died while participating in off-duty training exercises directly related to maintaining fitness for duty on or after November 1, 2008.

## Maryland Whistleblower Law – Confidentiality

*Senate Bill 81 (passed)* requires confidential treatment of information obtained in the course of an investigation of an alleged violation of the Maryland Whistleblower Law. The bill applies retroactively to any investigation of a complaint that was initiated or completed before the October 1, 2009 effective date of the bill.

## Pensions and Retirement

### Reemployment of Retirees

Subject to limited exceptions, retirees who receive a retirement benefit from the State are subject to a dollar-for-dollar reduction in their retirement allowance if they are reemployed by the same employer for whom they worked at the time of their retirement. Two bills that passed during the 2009 session address exceptions to this provision.

*Senate Bill 1019/House Bill 1495 (both passed)* exempt a reemployed retiree of the State Police Retirement System (SPRS) from a retirement allowance reduction if the retiree is reemployed by the Department of State Police at a rank of trooper first class, is reemployed for no more than four years, is younger than age 60, and terminates participation in the Deferred Retirement Option Program. It also provides a disability benefit to a reemployed SPRS retiree who is incapacitated while reemployed as either a trooper first class or as a helicopter pilot with the Maryland State Police Aviation Command. Finally, it provides a death benefit to the surviving family members of an SPRS retiree who is killed while reemployed in either of the same two capacities. The death benefit applies retroactively and, therefore, provides a death benefit to the surviving spouse of an SPRS retiree who was reemployed as a helicopter pilot and died in a crash in September 2008.

*House Bill 1513 (passed)* repeals for two years the four-year limitation on contractual reemployment as health care practitioners during which retirees of the Employees' Retirement System (ERS) or Employees' Pension System (EPS) are exempt from a reduction to their retirement allowance.

### Local Pension Bills

*Senate Bill 962/House Bill 1383 (both passed)* require employees of the Town of University Park to become members of EPS as a condition of their employment. Current employees receive eligibility and service credit at the rate of 70% of their past service credit with the town.

*House Bill 745 (passed)* requires members of the Town of Sykesville to become members of EPS as a condition of their employment. Current employees receive eligibility and service credit at the rate of 75% of their past service with the town.



**House Bill 879 (passed)** authorizes the Board of County Commissioners for Frederick County to enact an ordinance authorizing the divestment of Frederick County pension funds that are currently invested in companies doing business in Iran or Sudan.

### **Death Benefits**

Chapter 519 of 2008 extended line-of-duty death benefits to surviving family members of State employees who are members of ERS or EPS and who were killed while performing the duties of their job. After the 2008 legislative session ended, but prior to the enactment of Chapter 519, an employee of the Maryland Transportation Authority (MDTA) was killed while performing the duties of his job. **Senate Bill 65 (Ch. 15)** extends the existing line-of-duty death benefit to provide a retroactive death benefit to the surviving family members of this employee of MDTA. By receiving the death benefit, the employee's family is also eligible to participate in the State's subsidized health plan.

### **Service Credit Transfers and Purchases**

**House Bill 872 (passed)** allows an EPS member previously employed by the Maryland Transit Administration to purchase service credit at full cost (employer and employee share, with interest) for past employment with the Washington Suburban Transit Commission (WSTC). The member may use funds from the Montgomery County Government's retirement savings plan that were deposited by the county on his behalf during his employment with WSTC.

**House Bill 1051 (passed)** allows a permanent employee of the City of Annapolis to receive creditable service in EPS for the time the individual was a contractual employee but made employee contributions to EPS and on whose behalf the City of Annapolis made employer contributions. The bill affects two Annapolis employees who were mistakenly classified as regular employees when they were contractual employees and, therefore, not eligible for membership in EPS.

### **Optional Retirement Program**

The Optional Retirement Program (ORP) is a voluntary defined contribution plan primarily for higher education faculty at public institutions who choose not to participate in the State Retirement and Pension System (SRPS).

**Senate Bill 66 (passed)** establishes that community colleges, except for Baltimore City Community College, are independent employing institutions with respect to their employees' eligibility for ORP and administration of supplemental retirement plans. Under current law, the Maryland Higher Education Commission serves as the official employing institution with respect to ORP membership for community college employees, although each community college tends to carry out administrative functions with respect to its employees' participation in ORP. Therefore, the bill conforms State law to existing practice.



## Joint Committee on Pensions

The General Assembly passed six measures sponsored by the Joint Committee on Pensions at the request of the SRPS Board of Trustees.

***Senate Bill 593/House Bill 446 (both passed)*** expand the reasons for which a member of the SRPS Board of Trustees may be granted an excused absence from a board meeting to include jury duty and attendance at investment or fiduciary training. It also repeals requirements that investment and fiduciary training for trustees be conducted in the State and by entities who are not affiliated with any of the system's external investment managers. Instead, training must be approved by the chairman of the board. In addition, the bills provide that an elected employee representative on the board must be given reasonable time during work hours to attend board and committee meetings. Finally, the board must report annually to the Joint Committee on Pensions on the cost and nature of travel expenses incurred by staff and trustees.

***Senate Bill 179/House Bill 466 (both passed)*** authorize the SRPS board to adopt regulations allowing managers to monitor and record incoming telephone calls to employees of the Member Services Division for training and quality control purposes. The Member Services Division provides benefit information to members and retirees, most of which is provided over the telephone.

***Senate Bill 178/House Bill 448 (both passed)*** raise the cap on management fees that the SRPS board can pay to external asset managers, not including managers of real estate and alternative assets, from 0.3% to 0.5% of the market value of managed assets. The bills also clarify the chief investment officer's authority to invest in alternative investment vehicles and select external investment managers.

***Senate Bill 226/House Bill 473 (both passed)*** require employees of local governments whose employer choose to participate in SRPS as a participating governmental unit (PGU) to elect participation by the effective date of the authorizing legislation of the local government. Under current law, PGU employees typically have either six months or one year from the effective date to decide whether to participate in a State plan. The bills also make technical changes to reflect the fact that, due to statutory changes over the past decade, PGUs may join or withdraw from either the Correctional Officers' Retirement System or the Law Enforcement Officers' Pension System.

***Senate Bill 591/House Bill 975 (both passed)*** conform State pension law to reflect recent changes to the federal Uniformed Services Employment and Reemployment Rights Act of 1994 and the Heroes Earnings Assistance and Relief Tax Act of 2007. Among other mostly technical changes, the bills entitle members of State or local retirement and pension plans who are killed in the line of duty while serving in the military to death and disability benefits provided by their plans as if they had returned to work and then died or become disabled.

***Senate Bill 592/House Bill 977 (both passed)*** make technical changes to State pension law to reflect recent changes to the federal Internal Revenue Code.

## Employer Contributions for Teachers

Four bills that would have required counties to pay a portion of the employer pension contribution for members of either the Teachers' Retirement System or Teachers' Pension System were referred for further study during the interim. *Senate Bill 710/House Bill 1046 (both failed)* and *Senate Bill 648/House Bill 525 (both failed)* would have frozen the State's share of employer pension contributions for teachers at fiscal 2010 levels and required local governments to pay the difference in succeeding years, either capped at 50% of the total or without a cap.

## General Assembly

### Generally

#### Legislative Continuances in Court Proceedings

A member of the General Assembly, or a desk officer of either chamber, is entitled to an automatic continuance in a legal proceeding that conflicts with a legislative session if he or she is an attorney in the case. *House Bill 1115 (failed)* would have expanded the provision to apply as well to instances in which a legislator or desk officer is a party to the case.

### Annotated Code

#### Code Revision – Human Relations Law

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 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.

*House Bill 51 (Ch. 120)* revises, restates, and recodifies the laws of the State relating to the Maryland Commission on Human Relations, prohibitions against discrimination, and remedies for discrimination. Instead of creating a new article of the Annotated Code, which is the norm for Code Revision bills, *House Bill 51* adds the new "Title 20 – Human Relations" to the existing State Government Article.

*House Bill 52 (Ch. 121)*, a companion bill to the revision, corrects cross-references to the new Human Relations title that appear in other parts of the Annotated Code of Maryland.

#### Annual Corrective and Curative Bills

Because the General Assembly delegates very little editorial control to the publishers of the Annotated Code with respect to making nonsubstantive and technical changes in the Code,

the Department of Legislative Services has long had the statutory authority to prepare legislation to make these sorts of changes both in the statutory text and titles of prior years' enactments.

These corrective measures are the Annual Corrective Bill, *Senate Bill 382 (Ch. 60)* and the Annual Curative Bill, *Senate Bill 440 (Ch. 68)*. Neither enactment contains any substantive change.

## **Joint Legislative Committees**

### **Information Technology and Biotechnology**

There is currently a Joint Technology Oversight Committee, composed of five senators and five delegates, which was established in an uncodified section of legislation enacted in 2000. *House Bill 438 (Ch. 140)* codifies the provision and changes its name to the Joint Information Technology and Biotechnology Committee. The membership is increased by one senator and one delegate, and the joint committee is additionally charged with working to broaden the support, knowledge, and awareness of biotechnology to benefit the people of Maryland.

### **Children, Youth, and Families**

The Joint Committee on Children, Youth, and Families, which is composed of 20 members of the General Assembly, was scheduled to terminate on June 30, 2009. With the enactment of *Senate Bill 413* and *House Bill 244 (Chs. 63 and 64)*, the joint committee is extended indefinitely.

### **Emergency Medical Services**

*Senate Bill 1063/House Bill 265 (both failed)* would have established a Joint Oversight Committee on Emergency Medical Services to monitor the procurement of State Police Medevac helicopters, review protocol changes for emergency medical services field providers, oversee efforts to address recommendations relating to the use of Medevac helicopters, and monitor ongoing safety improvements for State Police Medevac helicopters.

## **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 of the 2009 session relate to study committees and task forces that include members of the General Assembly in their membership.

### **Women in Military Service Monument**

In 2005, a Task Force on the Establishment of a Maryland Women Veterans Monument was created to identify and recommend the funding, design, construction, and placement of an appropriate monument to honor Maryland women who have served in the United States

uniformed services. The task force terminated that same year after submitting a report of its recommendations, which included a call for a new commission to move the process forward.

Subsequently, in 2006, a 10-member Commission on the Establishment of a Maryland Women in Military Service Monument was formed to again identify and recommend the funding, design, construction, and placement of an appropriate monument dedicated to women from Maryland who served in the uniformed forces of the United States. The commission terminated in 2007. The commission's final report recommended that the monument be funded by a combination of State bonds and private fundraising. The proposed location for the monument is Fort Meade. Although Fort Meade remains a possible location, there may be a need to identify alternative locations due to the difficulty of procuring the federal property planned for use. Funds have not been secured for the project, nor have specific sources of funding been identified.

*Senate Bill 376/House Bill 944 (both passed)* revive the Commission on the Establishment of a Maryland Women in Military Service Monument in order to complete the task. The revived commission will include among its members one senator and one delegate, each to be a member of the General Assembly's Veterans' Caucus.

### **Quiet Vehicles and Pedestrian Safety**

Because pedestrians, and particularly blind people, depend on sound cues produced by internal-combustion engines to safely cross streets, the increase in quieter hybrid, electric, and other low-emission vehicles presents a growing safety concern.

An enactment in 2008 established the Maryland Quiet Vehicles and Pedestrian Safety Task Force to study the effects of vehicle sound on pedestrian safety; review available research on the effects of vehicle sound on pedestrian safety and consult with consumer groups and safety advocates; conduct hearings to accept testimony; and make recommendations regarding a minimum sound level, the nature and characteristics of the minimum sound that should be required for all new vehicles sold and licensed in Maryland, and the use of technology to enhance the safety of blind pedestrians.

The task force published a final report in 2008, concluding that there is sufficient anecdotal evidence of this emerging problem, but finding that a lack of data from the federal government and automobile industry is preventing progress in addressing this concern. Therefore, the report recommended that the task force be reconstituted and include a member of the House of Delegates and the Senate. The report also recommended that the General Assembly adopt a resolution encouraging the State's congressional delegation to support federal legislation, that the Governor write to the U.S. Department of Transportation to encourage adoption of regulatory standards, and that the task force actively engage with the State and federal government and industry on how to achieve progress on making quiet vehicles safer for pedestrians.

*Senate Bill 370/House Bill 367 (both passed)* reconstitute the Maryland Quiet Vehicles and Pedestrian Safety Task Force and add the recommended senator and delegate to the task force membership.

### **Autism**

*Senate Bill 963/House Bill 503 (both passed)* establish the Maryland Commission on Autism, which will include one member of the Senate and one member of the House of Delegates. The commission will make recommendations regarding services for individuals with autism spectrum disorders; develop a statewide plan for a system of training, treatment, and services for individuals with autism; and evaluate ways to promote autism spectrum disorder awareness.

Autism is the most common condition in a group of developmental disorders known as autism spectrum disorders. Autistic children have trouble with social interaction as well as verbal and nonverbal communication, and they exhibit repetitive behaviors or narrow, obsessive interests. In the past decade, the number of children identified with characteristics of autism has increased significantly in nearly every jurisdiction in Maryland. Maryland's schools have seen a marked rise in the prevalence of these disorders in school-aged children.

### **Prisoner Re-entry**

The federal Second Chance Act was enacted in 2008 to improve outcomes for people returning to the community from prisons and jails, nationwide. The federal law authorizes grants to government agencies and community and faith-based organizations to provide employment assistance, substance abuse treatment, housing, family programming, mentoring, victims support, and other services that can help reduce re-offending and violations of probation and parole. The goal is to reduce the rate of recidivism, which in Maryland has been hovering near the 50% mark for several years.

*Senate Bill 908/House Bill 637 (both passed)* establish a Task Force on Prisoner Reentry, which will include among its membership two senators and two delegates.

The task force's charge, among other duties, is to develop a comprehensive strategic reentry plan as specified under the federal Second Chance Act.

### **Prison Violence**

*Senate Bill 817 (Ch. 102)* continues until the end of 2010 the Task Force to Study Prison Violence in Maryland, which was established in 2007. The task force includes one member from the Senate of Maryland and one from the House of Delegates.

### **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 evaluation and termination dates on the following regulatory agencies were extended:

- ***House Bill 62 (Ch. 123)*** extends the Maryland Board of Veterinary Medical Examiners by 10 years and requires a report on registered veterinary technicians, penalty authority, public outreach, and disciplinary caseload.
- ***Senate Bill 117 (Ch. 29)*** extends the State Board of Well Drillers by 10 years. The Act also requires the board to prepare a report, in conjunction with the Department of the Environment, on its plans to increase fees and to track consumer complaints and related disciplinary actions.
- ***House Bill 61 (Ch. 122)*** extends the State Athletic Commission by 10 years and requires a report on the implementation of mixed martial arts regulations.
- ***Senate Bill 119 (passed)*** extends the Horse Racing Act for three years. The Horse Racing Act requires the Maryland Racing Commission, the Maryland-bred Race Fund Advisory Committee, and the Standardbred Race Fund Advisory Committee to be evaluated every 10 years. ***Senate Bill 119*** allows for delayed full evaluation of the three entities until July 1, 2013, and exempts them from preliminary evaluation requirements.

The Athletic Trainer Advisory Committee is created as a subunit the Board of Physicians under the provisions of ***Senate Bill 247/House Bill 173 (both passed)***. The new advisory committee will be the subject to an evaluation in 2012 and termination in 2013.

