

Part C

State Government

State Agencies, Offices, and Officials

State Officials

Salaries of Governor and Constitutional Officers

In the last year of an election cycle, the Governor's Salary Commission makes recommendations to the General Assembly on salaries for the Governor and Lieutenant Governor for the following four-year term. Similarly, the General Assembly Compensation Commission makes recommendations concerning the salaries for members of the General Assembly for the next four-year term. For a discussion of the work of this commission, see the subpart "General Assembly" within this part of this *90 Day Report*. The General Assembly may endorse or reduce each commission's proposals but may not increase the proposed salaries.

In 2010, the Governor's Salary Commission recommended that the salaries for the Governor and Lieutenant Governor remain the same for the first two years of the new term and then increase for each of the last two years of the term. *House Joint 3 (passed)* rejects the salary recommendations of the commission. Thus, the salaries of the Governor and Lieutenant Governor will remain the same for the next four-year term of office.

In addition to making salary recommendations for the Governor and Lieutenant Governor, the Governor's Salary Commission makes recommendations regarding the salaries of the Attorney General, Comptroller, Secretary of State, and Treasurer for the next four-year term of office. *Senate Bill 143/House Bill 184 (both failed)* would have implemented recommended salary increases for these constitutional officers for the last two years of the next four-year term of office. Because the bills failed, the salaries for those offices will remain the same for the next four-year term.

State Agencies

Advisory Councils, Committees, and Commissions

The State Drug and Alcohol Abuse Council was established in 2004 by an executive order and reauthorized in 2008. Among other things, the council is charged with preparing and annually updating a two-year strategic plan that establishes priorities for the delivery and funding of drug and alcohol abuse services in the State. *House Bill 219 (passed)* codifies the council. The bill adds the Public Defender of Maryland, or the Public Defender's designee, to the membership of the council and requires the Alcohol and Drug Abuse Administration to provide staff for the council.

The scope of the Governor's Office of the Deaf and Hard of Hearing is expanded by *Senate Bill 79 (passed)* to include individuals who are deaf-blind. Deaf-blind individuals have a combination of hearing and visual losses that cause difficulties in communicating, especially for children. Although the office was not required to do so by law, the office has been serving the deaf-blind community. Also, the office is no longer charged with acquiring and distributing visual smoke detectors because local fire departments have taken over that role. The bill adds two members to the Maryland Advisory Council for the Deaf and Hard of Hearing. The two members are the Secretary of Aging, or the Secretary's designee, and an individual with knowledge or expertise relating to the deaf-blind.

Reorganization

The Maryland Emergency Management Agency (MEMA) is part of the Maryland Military Department and is responsible for coordinating the State response to any major emergency or disaster. Formerly, the Adjutant General of the Maryland Military Department, with the approval of the Governor, had the responsibility of appointing the director of MEMA. *Senate Bill 73 (Ch. 24)* shifts that responsibility to the Governor and requires the director to be directly responsible to the Governor for carrying out the State emergency management program. The Act also removes the role of the Adjutant General from the development of mutual aid agreements regarding the employment of personnel.

Disclosure of Personal Information on State Government Web Sites

Under current law, while most business entities are prohibited from publicly posting or displaying an individual's Social Security number, State and local governments are exempt from the prohibition. *House Bill 1042 (passed)* places similar restrictions on State government. Beginning June 1, 2010, departments and independent units of State government, as well as State courts, are prohibited, to the extent practicable, from publicly posting or displaying on an Internet web site maintained or paid for by the department, independent unit, or court an individual's personal information. Personal information is defined as an individual's Social Security number or driver's license number. An individual that is the subject of the personal information or, if that individual has a legal disability, the parent or legal representative of the individual may request the official custodian of the public record to mask personal information that is on the Internet version of a public record. The request must be in writing and provide an

accurate description of the public record. If an official custodian receives a request to mask the personal information, the official custodian is required to mask the personal information and give the individual written notice that the information has been masked. These provisions, however, do not apply to a public record after 72 years from the date the record was made or received by State government. The bill also provides similar restrictions regarding personal information in a deed or other recordable instrument.

The Military and Veterans

Militia

The Maryland militia, with certain exceptions, consists of citizens of Maryland or individuals who are foreign born but are residents of Maryland and have declared an intention to become citizens of the United States. *Senate Bill 72 (Ch. 23)* expands the pool of eligible individuals to those who are citizens of the United States and who take an oath of allegiance to Maryland.

During peace time, enlisted members of the State’s organized militia are considered to be covered employees under the State’s workers’ compensation law, with the State being considered the employer. If an enlisted member is injured during training as part of the Maryland State Guard or on active duty under order of the Governor in time of civil disorder, labor disorder, natural disaster, or other event that requires the support of the State militia, the employee is entitled to receive wage replacement benefits. The amount of the wage replacement benefits are based on the soldier’s average weekly wage. To determine the average weekly wage, either the wage provided for active duty under the Public Safety Article or the actual wages earned by the soldier in employment in the National Guard can be used. *Senate Bill 53 (passed)* adds the actual wages earned by the soldier in the soldier’s civilian employment at the time of entry into State active duty as a third type of compensation that can be used. The average weekly wage is based on the greatest of those three types of compensation.

Department of Veterans Affairs

Washington Cemetery was established in 1870 as a burial place for Civil War soldiers who died in various battles fought in the State. Since that time, the Washington Cemetery Board of Trustees has overseen the cemetery. However, because so little oversight is required, the Board of Trustees has not met in several years. *Senate Bill 78 (Ch. 29)* abolishes the Board of Trustees and transfers the supervision of the cemetery to the Maryland Department of Veterans Affairs.

The Department of Veterans Affairs, under *Senate Bill 1033/House Bill 1353 (both passed)*, is required to develop a Military Health Care Provider Transition Plan. The purpose of the plan is to increase the number of veterans with expertise in health care workforce shortage areas to transition into civilian health care provider positions. For a more detailed discussion of this issue, see the subpart “Health Occupations” within Part J – Health and Human Services of this *90 Day Report*.

Revenue and Investments

Under the Minority Business Enterprise (MBE) Linked Deposit Program, a bank provides a loan to a certified MBE through the Department of Housing and Community Development at an interest rate two percentage points lower than the bank otherwise would charge. In return, the State Treasurer's Office purchases a certificate of deposit from that bank in an amount equal to the amount of the loan and accepts a 2% point reduction in the interest rate of the investment. *Senate Bill 208/House Bill 834 (both passed)* alter the program to allow the State Treasurer to invest in any type of interest bearing account, rather than limiting the investments to certificates of deposit.

State Designations

The federal government recognizes September 15 through October 15 as National Hispanic Heritage Month. September 15 was chosen because it is the anniversary of independence for numerous Latin American countries. *Senate Bill 415/House Bill 34 (both passed)* establish Hispanic Heritage Month at the State level by requiring the Governor to issue a proclamation. The purpose of the designation is to recognize the contributions that Hispanic Americans have made to the State.

Beginning in 2006, a yearly memorial service has been held at the Maryland Fire-Rescue Services Memorial in the City of Annapolis in early June. The memorial service is formally recognized through *Senate Bill 715/House Bill 910 (both passed)*, which require the Governor to annually proclaim the first Sunday in June as the day to honor the fire, rescue, and emergency services workers of the State who made the ultimate sacrifice in the performance of their duties. On that day, the State flag is to be flown at half-staff and memorial plaques containing the names of the workers who made the ultimate sacrifice will be placed on the memorial by the Maryland Fire-Rescue Services Memorial Foundation.

The main duties of the State Archivist are to preserve, describe, and make accessible to the government and the public records deemed to have permanent historical, educational, and administrative value. *Senate Bill 166/House Bill 345 (both passed)* authorize the State Archivist to review, evaluate, and make recommendations to the General Assembly regarding State designations. The State Archivist must review, evaluate, and make a recommendation regarding a State designation if requested by the President of the Senate, Speaker of the House of Delegates, Chair of the Senate Education, Health, and Environmental Affairs Committee, or the Chair of the House Health and Government Operations Committee.

Senate Bill 164/House Bill 346 (both passed) repeal the Advisory Committee on the Naming of State Facilities and Bridges, which has met only twice since it was established in 2005. The advisory committee was charged with considering and evaluating requests to name State facilities, other than those at public institutions of higher education, for individuals and accepting public testimony at its hearings.

Elections

Voting System

Funding Not Provided for New Voting System

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 the State Board of Elections (State board) to certify a voting system that provides a voter-verifiable paper record for use in each election beginning in 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.

Chapter 428 of 2009 amended the requirements of Chapters 547 and 548 of 2007 by allowing the State’s current DRE touch screen voting machines to be used to provide access to voters with disabilities until a voting machine becomes available that complies with the accessibility requirements of VVSG and provides a voter-verifiable paper record.

The State board moved forward with procurement of an optical scan voting system in 2009 in accordance with these statutory requirements, but before a contract could be awarded, funding for the new system was not included in the fiscal 2011 budget. As a result, the 2010 gubernatorial elections will instead be conducted using the State’s current DRE touch screen voting system.

The Attorney General’s Office advises that despite the statutory requirement that an optical scan voting system be used in each election beginning with the 2010 primary election, the Governor acted within his constitutional budgetary powers in not including funding for a new voting system in the fiscal 2011 budget. Absent this funding, the State board is not legally obligated to purchase a new voting system. The Attorney General’s Office also advises that the State may continue to use the current DRE touch screen voting system, which has not been decertified, until the Governor provides funding for a new system.

A provision of *Senate Bill 141 (passed)*, the Budget Reconciliation and Financing Act of 2010 (BRFA), relates to funding for the procurement of an optical scan voting system. Chapter 487 of 2009, the Budget Reconciliation and Financing Act of 2009, allowed for the transfer of up to \$2 million from the Fair Campaign Financing Fund to the Maryland Information Technology Development Project Fund for the purpose of purchasing a new optical scan voting system. (For additional information about the Fair Campaign Financing Fund, see the discussion below under “Campaign Finance.”) If the funds are not used for that purpose, Chapter 487 requires that they be transferred to the Maryland Election Modernization Fund, which may be used for a variety of purposes to improve the electoral process. The BRFA of 2010 repeals the language in Chapter 487 requiring the transfer of funds not used for a new voting system to the Election Modernization Fund, and instead requires that they revert to the Fair Campaign

Financing Fund, where they may be used to subsidize the procurement of an optical scan voting system in the future.

Study of Voting System Issues

The BRFA of 2010 also requires the Department of Legislative Services to hire a consultant to study issues relating to the State's voting system. The department is authorized to spend up to \$150,000 from the Fair Campaign Financing Fund for the study. The consultant is required to study several issues concerning the cost of continuing to use the State's current voting system as compared to the cost of obtaining a new optical scan voting system. The consultant is also required to estimate the life span of the State's current voting system and make recommendations for procuring and implementing an optical scan voting system in a cost effective manner. In making its findings and recommendations, the consultant is required to consult with voting system experts and review the voting system contracts and policies of other jurisdictions. The report of the consultant is due to the Governor and the General Assembly by December 1, 2010.

Voter Registration

Under the Maryland Constitution, generally every citizen of the United States, age 18 or older, who is a resident of the State as of the close of registration prior to an election is entitled to vote. The constitution requires individuals to be registered in order to vote and requires the General Assembly to provide by law for a uniform registration of the names of all voters in the State that meet the constitutional requirements. Qualifications to register to vote are set out in the Election Law Article and are similar to the voter eligibility requirements in the constitution, though certain individuals, including individuals under guardianship for mental disability, are not qualified to be registered voters. Several bills passed this session alter those statutory qualifications.

Individuals under Guardianship for Mental Disability

The Maryland Constitution gives the General Assembly the authority to "regulate or prohibit the right to vote of a person ... under care or guardianship for mental disability" and, as mentioned above, under the Election Law Article an individual under guardianship for mental disability is not qualified to be a registered voter. Maryland is among a majority of states that prohibit persons with mental disabilities from voting to one extent or another, whether based on guardianship or otherwise.

In Maryland, a guardian is generally appointed for an individual when a circuit court determines that the individual cannot make or communicate responsible decisions concerning his or her person, or cannot manage his or her property and affairs effectively, for reasons including mental disability. A person's capacity to vote, however, is not part of the court's determination and concerns have been raised that the prohibition of individuals under guardianship for mental disability from registering to vote can deny persons that are competent to vote the right to do so.

Senate Bill 28/House Bill 816 (both passed) specify that in order for an individual under guardianship for mental disability to be disqualified from registering to vote, a court of competent jurisdiction must have specifically found by clear and convincing evidence that the individual cannot communicate, with or without accommodations, a desire to participate in the voting process.

Individuals under Age 18

Under the Election Law Article, one of the requirements to become registered to vote is that an individual be at least age 18 or will turn 18 on or before the day of the next succeeding general or special election. The Maryland voter registration application requires the applicant to sign an oath swearing or affirming that, among other things, the applicant “will be at least 18 years old or older by the next General Election.”

Senate Bill 292/House Bill 217 (both passed) allow an individual who is at least age 16 to register to vote, provided the individual meets other voter registration requirements. Some other states, such as Florida, Hawaii, and Oregon have similar laws that allow an individual under age 18 to “pre-register,” though the individual may not be immediately eligible to vote in an upcoming election due to the individual’s age. Maryland’s voter registration database currently has the functionality to enter individuals who will not be 18 or older by the next general election while not including those individuals in the electronic poll books and election registers for an election until they are eligible to vote.

Senate Bill 292/House Bill 217 provide that an individual under 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, but may not vote in any other election. Whether an individual under age 18 may vote in a Maryland primary election before reaching the age of 18 came into question after the issuance of a 2006 Court of Appeals opinion (*Lamone v. Capozzi*), which addressed the applicability of certain election-related provisions of the Maryland Constitution to primary elections. Individuals who were 17 but would be 18 on or before the next general election had previously been permitted to vote in the primary election. The issue eventually came before the Court of Appeals, which issued an order in February 2008 stating that registered 17-year-olds who would be 18 on or before the November 2008 general election must be allowed to vote in the 2008 presidential primary election, with the exception of certain special and municipal election contests.

Senate Bill 292/House Bill 217 also allows a registered voter to change party affiliation (or nonaffiliation) at any time that voter registration is open. This eliminates an existing restriction under which a voter may not change party affiliation during an extended period prior to a primary election and a specified period prior to a special congressional election. The bills also specify that the number of signatures needed to seek nomination by petition must be determined as of January 1 of the year of the primary election for which the nomination is sought.

Campaign Finance

Online Campaign Finance Reporting System

Senate Bill 141, the BRFA of 2010, authorizes the transfer of up to \$500,000 from the Fair Campaign Financing Fund to the State board for the purpose of procuring an online campaign finance reporting system. The new system will replace ELECTrack, the electronic filing software that campaign finance entities currently use to report campaign finance information to the State board. With the implementation of the new system, it will be possible to report campaign finance information using any computer with an Internet connection, not just a computer on which ELECTrack is installed. The State board also advises that the new system will be more cost effective to operate than ELECTrack because it will no longer be necessary to send out costly software updates each time there is a change in campaign finance reporting requirements under State law.

Fair Campaign Financing Fund Tax Checkoff

The BRFA of 2010 also includes an amendment eliminating the line on the State income tax form that allows taxpayers to voluntarily donate to the Fair Campaign Financing Fund. Any amount donated is in addition to the taxpayer's tax liability. The Fair Campaign Financing Fund exists to provide public campaign financing to qualifying candidates for Governor and Lieutenant Governor. However, according to the 2004 report of the Study Commission on Public Funding of Campaigns in Maryland, the fund "has remained essentially unused to date" and "has rarely reached a functional level." In Chapter 487 of 2009, the BRFA of 2009, the General Assembly declared that the fund "cannot operate as originally contemplated" and allocated money in the fund for the purchase of an optical scan voting system. This action was in accordance with advice from the Attorney General that the General Assembly may constitutionally spend the money in the fund on any initiative that enhances the electoral process, because this would fulfill the general intent of the donors to the fund. By eliminating the tax checkoff, the BRFA of 2010 ensures that taxpayers will no longer be donating to a fund that the General Assembly has declared to be defunct and which is now being used for other purposes.

Campaign Finance Reports

For each election in which a campaign finance entity participates, it generally must file campaign finance reports at various times prior to and after the primary and general elections. The reports must contain information required by the State board with respect to all contributions received and all expenditures made by or on behalf of the campaign finance entity during a reporting period. Annual reports generally must also be filed on the third Wednesday in January. An affidavit may be filed in place of a campaign finance report when a campaign finance entity has not raised or spent a cumulative amount of \$1,000 or more, exclusive of the candidate filing fee, since the campaign finance entity was established or since the campaign finance entity's last campaign finance report was filed.

House Bill 378 (passed) requires a ballot issue committee to file an additional campaign finance report prior to a general election, on or before the fourth Friday preceding the election.

Currently a ballot issue committee must file a report on or before the second Friday before a general election and on or before the third Tuesday after a general election.

The bill also specifies that a campaign finance entity of a candidate for election to the central committee of a political party that is authorized to file an affidavit of limited contributions and expenditures in place of a campaign finance report is not required to file the affidavit or a campaign finance report on the campaign finance reporting dates prior to and after primary and general elections. Those campaign finance entities, however, must still file an affidavit or a campaign finance report on the third Wednesday in January.

Authority to Make Disbursements

Under the Election Law Article, assets received by or on behalf of a campaign finance entity must be delivered to and maintained by the treasurer for the purposes of the campaign finance entity. Assets may be disbursed only if they have passed through the hands of the treasurer and only in accordance with the purposes of the entity. With certain exceptions, the treasurer must make all disbursements for a campaign finance entity. *House Bill 1440 (passed)* allows a chairman of a campaign finance entity, who is not a candidate, to make a disbursement on behalf of the campaign finance entity in the same manner as the treasurer if the treasurer is temporarily unable to perform the duties of the office. The chairman, however, must submit a report concerning the expenditure to the treasurer within seven days after making the disbursement for the account book of the campaign finance entity.

House Bill 1440 also repeals the office of subtreasurer of a campaign finance entity. Under existing law, a treasurer is allowed to appoint a subtreasurer for any county, each precinct in a county, or any political subdivision, who must deposit, disburse, and account for funds in the same manner as, and under the authority of, the treasurer. According to the State board, subtreasurers have not been used by campaign finance entities in recent years.

Voting Offenses – Injunctive Relief

The Attorney General’s Task Force on Voting Irregularities indicated in an April 2008 report that “organized efforts to suppress or discourage voting have occurred in Maryland.” The task force recommended that the Attorney General put in place an ongoing procedure to investigate acts of voter intimidation and to take legal action where appropriate. It also recommended that the Attorney General consider convening a multistate task force to work with the U.S. Department of Justice regarding broader coordination of legal efforts to prosecute voter suppression activities targeted at minority groups.

Senate Bill 114/House Bill 266 (both failed), as amended by the House, would have authorized the Attorney General or any registered voter to seek injunctive relief in circuit court when a person, political committee, campaign finance entity, or other organization or entity has engaged, or there are reasonable grounds to believe the person or entity is about to engage, in specified prohibited actions related to voter fraud and voter suppression. These prohibited actions include, among other things, voting more than once and influencing a voter’s decision whether to go to the polls through force, threat, bribery, or fraud.

Redistricting – Counting of Prison Inmates

With congressional and legislative redistricting approaching, *Senate Bill 400/House Bill 496 (both passed)* require that population counts used after each decennial census to create congressional districts, legislative districts of the General Assembly, and county and municipal legislative districts exclude individuals who, as determined by the decennial census, were incarcerated in State or federal correctional facilities and were not State residents prior to their incarceration. The bills also require that individuals incarcerated in State or federal correctional facilities who were residents of the State before their incarceration be counted at their last known residence before incarceration. For further discussion of *Senate Bill 400/House Bill 496* see the subpart “General Assembly” within Part C – State Government of this *90 Day Report*.

Ethics

Maryland Public Ethics Laws

Local Elected Officials and School Board Members

Senate Bill 315 (passed) requires county and municipal corporation conflict of interest and financial disclosure provisions for elected local officials and school board members to be equivalent to or exceed State conflict of interest and financial disclosure requirements, subject to local modifications if necessary. The provisions or regulations must require an elected local official or school board member to file a financial disclosure statement on or before April 30 of each year. The local ethics commission or the appropriate entity of each county and municipal corporation is required to certify to the State Ethics Commission on or before October 1 of each year that the county or municipal corporation is in compliance with the requirements for elected local officials. A candidate for election to an office of an “elected local official” is also required to comply with the financial disclosure requirements of the Public Ethics Laws.

Liquor Control Boards

Somerset and Worcester counties are two of only five counties in the State that regulate alcoholic beverages by means of a liquor control board. A liquor control board is authorized by statute to operate county liquor dispensaries that make wholesale or retail “package” sales of certain types of alcoholic beverages to regulate price and competition within the county. In 2009, the State Ethics Commission sought an opinion of the Attorney General as to whether liquor control boards are State or local entities for the purpose of applying the Maryland Public Ethics Laws. In response to the Attorney General’s determination that a liquor control board is a State entity, *House Bill 1309 (Ch. 170)* adds the liquor control boards for Somerset and Worcester counties to the definition of “executive unit” for purposes of governance by the Public Ethics Laws.

Local Bills

Howard County: *House Bill 230 (Ch. 138)* specifies that, for purposes of the Public Ethics Laws disclosure provisions specific to Howard County, the definition of “applicant” includes, as to an application for a zoning regulation, any person authorized to sign the application. The Act requires the administrative assistant to the zoning board and the administrator of the county council to prepare a summary report compiling all affidavits and disclosures filed under the Howard County-specific disclosure provisions promptly on receipt, instead of at least twice each calendar year. This summary report must be available for immediate inspection by the general public upon written request.

Procurement

Most of the procurement legislation passed during the 2010 General Assembly session focused on two main areas: the State’s Minority Business Enterprise (MBE) program and environmentally friendly construction and purchasing requirements. Other successful bills address the State procurement preference programs and miscellaneous aspects of State procurement law.

Minority Business Enterprise Program

The State’s MBE program establishes a goal that at least 25% of the total dollar value of each agency’s procurement contracts be awarded to MBEs, including 7% to African American-owned businesses and 10% to woman-owned businesses. The program applies to all State procurements for goods and services. Before a minority-owned business may participate in the program, the Maryland Department of Transportation (MDOT) must certify that the business meets statutory requirements regarding its legitimacy as a business enterprise as well as the minority status and personal net worth of its ownership.

MBE legislation passed in 2010 streamlines the certification process for small, minority-owned businesses seeking to participate in the program and expands the program’s applicability to more State-funded endeavors. *Senate Bill 130/House Bill 250 (both passed)* require MDOT to promote and facilitate certification of MBEs that are already certified as minority-owned businesses by the U.S. Small Business Administration or by a county whose certification process is substantially similar to the State’s process. *Senate Bill 131/House Bill 251 (both passed)* require MDOT to promote and facilitate the electronic submission of some or all of an application seeking certification as an MBE. Currently, applicants may complete a portion of the application online but must print out and mail the completed application and all supporting documentation. *Senate Bill 546/House Bill 923 (both passed)* require MDOT to complete its review of an application for MBE certification and notify an applicant of its decision within 90 days of receiving a complete application. After notifying the applicant in writing, MDOT may extend the notification requirement by no more than 60 days.

House Bill 209 (passed) requires that any hospital or institution of higher education that is not already subject to the MBE requirements and that receives a grant of at least \$500,000

funded by State general obligation bonds submit an annual report to the Governor's Office of Minority Affairs (GOMA) detailing the extent to which the recipient has contracted with, or intends to contract with, MBE firms to work on the funded project. The bill's reporting requirement extends through fiscal 2014 for grant recipients and fiscal 2015 for GOMA. *Senate Bill 893/House Bill 908 (both passed)* specify that procurements by the Maryland Clean Energy Center are subject to the MBE program requirements. For a further discussion of *Senate Bill 893/House Bill 908*, see the subpart "Economic and Community Development" within Part H – Business and Economic Issues of this *90 Day Report*.

Senate Bill 849 (passed) requires that the annual report submitted by each State procurement unit to GOMA include the number and names of certified MBEs that participated as prime contractors or as subcontractors on procurement contracts awarded by the unit that year. For each MBE named in the report, the bill requires the unit to also list all procurement contracts awarded by the unit to that MBE.

Senate Bill 2/House Bill 222 (both passed) establish a Task Force on the Minority Business Enterprise Program and Equity Investment Capital, which is charged with exploring strategies for increasing venture capital investment in minority-owned firms.

Environmentally Friendly State Construction and Purchasing

The State's High Performance Building Act (Ch. 124 of 2008) requires that most new or renovated State buildings and new school buildings meet or exceed either the U.S. Green Building Council's Leadership in Energy and Environmental Design (LEED) criteria for a silver rating or a comparable rating according to a nationally recognized, accepted, and appropriate standard approved by the Department of Budget and Management and the Department of General Services (DGS). As of 2010, only the LEED high-performance building standard is recognized under the Act. *Senate Bill 234/House Bill 1044 (both passed)* require that community college capital projects that receive State funds comply with the State's High Performance Building Act (*i.e.*, achieve at least a LEED silver rating). The bills allow community colleges to apply for and receive a waiver from this requirement under the Act's existing procedures.

Senate Bill 693/House Bill 1164 (both passed) promote the use of environmentally preferable purchasing throughout State government through a variety of study and reporting requirements and the establishment of the Maryland Green Purchasing Committee. The committee must provide information and assistance regarding environmentally preferable purchasing to State agencies by, among other things, developing and implementing a strategy that may include statewide policies, guidelines, programs, and regulations, and developing a "best practices" manual. The bill also requires DGS to study and report on the use of compost as a fertilizer on State property and establishes a goal for DGS to compost all landscape waste on State property that it operates. The percentage of paper purchased by DGS that must be recycled increases from 40% to 90%.

Senate Bill 791 (passed) authorizes the Board of Public Works (BPW), on the recommendation of DGS, to waive the statutory requirement for a mandatory termination clause for a multi-year State contract to procure renewable energy for the State. In considering whether to grant a waiver, BPW must consider the effects of its decision on the ability of an energy vendor to obtain financing for the renewable energy generation project.

Small Business and Other Preference Programs

Senate Bill 71 (Ch. 22) reauthorizes the Small Business Reserve (SBR) Program for six years, until September 30, 2016. The SBR program requires most State procurement units to structure their procurements so that at least 10% of the total dollar value of their procurements is made directly to small businesses.

Senate Bill 171/House Bill 359 (both passed) establish a procurement preference program in which, beginning July 1, 2012, each State agency tries to award 0.5% of the value of its procurement contracts to small businesses owned and operated by veterans. To participate in the program, veteran-owned businesses must be verified by the Center for Veterans' Enterprise within the U.S. Department of Veterans Affairs.

Miscellaneous Procurement Legislation

Senate Bill 979/House Bill 1370 (both passed) define a “public-private partnership” and establish a framework of reporting requirements and oversight procedures for State entities that enter into such partnerships. For a more detailed discussion of this issue, see the subpart “Transportation” within Part G – Transportation and Motor Vehicles of this *90 Day Report*.

Contractors working on eligible public works projects must pay their employees the prevailing wage rate. Eligible public works projects are those valued at more than \$500,000 and carried out by the State or a political subdivision for which at least 50% of the project cost is paid by State funds. *Senate Bill 451/House Bill 1100 (both passed)* restrict the ability of an employee to file a civil lawsuit for recovery of unpaid wages under the State's prevailing wage law, and instead require the employee first to file a complaint with the Commissioner of Labor and Industry. Only in instances in which an employer fails to comply with an order from the commissioner to reimburse unpaid wages may an employee or the commissioner file a civil lawsuit for unpaid wages and up to triple damages.

House Bill 647 (passed) exempts from most aspects of State procurement law any grants, agreements, or partnerships related to conservation service opportunities that are negotiated or entered into by the Department of Natural Resources with nonprofit entities.

House Bill 531 (passed) changes the membership of the Task Force to Study the Procurement of Health and Social Services by State Agencies, expands its scope to include the procurement of education services, transfers its staffing responsibility to the Board of Public Works, and extends its authorization by two years until June 30, 2012. The task force was established by Chapters 438 and 439 of 2008 and must report preliminary findings and

recommendations by November 30, 2010, and its final findings and recommendations by November 30, 2011.

Personnel

State Employees

Impact of Budget Actions on State Employees

In fiscal 2011, which begins on July 1, 2010, State employees will continue to be impacted by the State's weak fiscal condition in several ways. Due to budgetary constraints, State employees will again not receive cost-of-living increases, merit increases, or deferred compensation matches. Moreover, a furlough and temporary salary reduction plan mirroring that instituted during fiscal 2010 was built into the fiscal 2011 budget. State employee salaries will fall by an average of 2.6% to satisfy the 5- to 10-day furlough and service reduction requirements that comprise the Administration's plan.

In fiscal 2011, the size of the regular State workforce decreases by 0.91%, or 719.3 positions – of which the General Assembly eliminated 568 positions. In accordance with a provision designed to encourage voluntary separation from State service, 500 of the positions abolished by the General Assembly will be carried out over the course of fiscal 2011, instead of at the end of fiscal 2010.

The Budget Reconciliation and Financing Act of 2010

The Budget Reconciliation and Financing Act of 2010 (BRFA) – *Senate Bill 141 (passed)* – includes a provision that prohibits performance bonuses, merit increases, and cost-of-living adjustments to State employees in fiscal 2011, except for increases necessary to retain faculty at public senior higher education institutions and a performance bonus for the Chief Investment Officer (CIO) of the State Retirement and Pension System. The bonus dispersed to the CIO may not exceed 10% of the CIO's salary in fiscal 2011.

In addition, the BRFA bill establishes a Public Employees' and Retirees' Benefit Sustainability Commission. The commission was established to provide an external review of recruitment practices, retention incentives, and State funded pensions, fringe benefits, and post retirement benefits provided to State and public education employees. For a further discussion of the commission, see the subpart "Pensions and Retirement" within this part of this *90 Day Report*.

Retiree Health

Senate Bill 444/House Bill 771 (both passed) extend the termination date of the Blue Ribbon Commission to Study Retiree Health Care Funding Options by two years, until June 30, 2012. For a more detailed discussion of *Senate Bill 444/House Bill 771*, see the subpart “Pensions and Retirement” within this part of this *90 Day Report*.

Collective Bargaining

During the 2010 legislative session, several bills were introduced that affect labor relations with various groups of employees.

Family Child Care Providers

The child care subsidy program, administered by the Maryland State Department of Education (MSDE), provides financial assistance with child care costs to eligible families through each local department of social services. In 2007, Governor O’Malley signed an executive order authorizing collective bargaining for registration and registration-exempt family child care providers participating in the child care subsidy program. An October 15, 2009 memorandum of understanding between the Governor, MSDE, and the Service Employees International Union (SEIU) recognized SEIU as the exclusive collective bargaining representative for all registered and registration-exempt family child care providers participating in the child care subsidy program. The memorandum of understanding also specified that if legislation expanding the rights of providers to engage in collective bargaining is signed by the Governor, SEIU may reopen negotiations related to these expanded rights.

House Bill 465 (passed) codifies collective bargaining rights for child care providers and authorizes the negotiation and implementation of service fees. Under the bill, the State must conclude that a collective bargaining agreement as a whole will not adversely impact providers who are not members of the main employee organization before a service fee for nonmember providers can be authorized through an agreement reached by the State and the providers’ exclusive collective bargaining representative. The bill also establishes a private fund to protect child care providers against extreme hardship or loss of livelihood resulting from late State payments. The bill also requires the Early Learning Programs Section of MSDE to report to the Senate Finance and House Economic Matters committees each year through 2013 on the status of the Maryland Child Care Subsidy Program as it relates to family child care providers.

Public School Teachers

State public school teachers enjoy collective bargaining rights throughout the State; however, the State Board of Education is the ultimate arbiter of all disputes between local boards of education and the local employee organizations representing school system personnel. Local employee organizations view this bargaining process as unfair. *Senate Bill 590/House Bill 243 (both passed)*, also known as the “Fairness in Negotiations Act,” establishes a Public School Labor Relations Board (PSLRB) to arbitrate impasses that cannot be resolved through mediation. Any such arbitration is binding but subject to the availability of funds. Under the bills, the State

Board of Education will no longer decide public school labor relations disputes, and the authority of the State Superintendent of Schools to declare labor impasses is repealed. The bills also establish a new mediation process for resolving disputes and establish a new process for the PSLRB to decide the negotiability of topics.

The bills require the staff for the State Labor Relations Board and the Higher Education Labor Relations Board to also staff the PSLRB. Prior decisions of the State Board of Education are not binding but may be considered precedent. PSLRB must report on the implementation of the bill by July 1, 2014, and the legislation sunsets on June 30, 2015. For a further discussion of *Senate Bill 590/House Bill 243*, see the subpart “Primary and Secondary Education” within Part L – Education of this *90 Day Report*.

Maryland Transportation Authority Police Officers

The Maryland Transportation Authority (MDTA) is a nonbudgeted agency that manages, operates, and maintains the State’s seven toll facilities. MDTA’s Police Force is responsible for security and law enforcement services at bridge and highway toll facilities, Baltimore/Washington International Thurgood Marshall Airport, the Port of Baltimore, and the Motor Vehicle Administration’s headquarters. The MDTA Police Force is the seventh largest law enforcement agency in the State and is the only State law enforcement agency to operate without funds budgeted for it in the State’s operating budget. Rather, funding for the operation of the authority is derived from the revenues it generates. Since MDTA is not considered to be a unit of the Maryland Department of Transportation, it is not subject to the general State collective bargaining law.

In the 2009 session, the General Assembly’s budget committees directed MDTA to work with representatives from MDTA police to reach agreement on a process to grant collective bargaining rights to MDTA police and to submit legislation in the 2010 session to effectuate this change. In a letter dated January 15, 2010, however, MDTA indicated that, due to a pending lawsuit, it had not entered into a collective bargaining discussion with MDTA police and did not plan to introduce legislation during the 2010 session.

House Bill 815 (passed) includes in the general State collective bargaining law MDTA Police Officers at the rank of first sergeant and below. The collective bargaining rights and procedures in the bill do not apply to employees who are supervisory, managerial, or confidential employees, as defined in regulations adopted by the Secretary of the Department of Budget and Management. The bill also requires that MDTA police officers must have a separate bargaining unit.

Librarians

Senate Bill 225/House Bill 881 (both failed) would have established collective bargaining rights and procedures for employees in public library systems in each county, except for Prince George’s County and Montgomery County, which already have collective bargaining provisions for their public library employees.

State Employee Disciplinary Actions

State Correctional Officers' Bill of Rights

The Law Enforcement Officers' Bill of Rights was enacted in 1974 to guarantee police officers specified procedural safeguards in any investigation that could lead to disciplinary action. But while it extends to police officers of specified State and local agencies, it does not extend to any correctional officers in the State. *Senate Bill 887 (passed)* addresses this situation by granting employment, investigation, and discipline-related rights to State correctional officers who are employees of the Department of Public Safety and Correctional Services working in a State correctional facility whose duties relate to the investigation, care, custody, control, or supervision of inmates.

Senate Bill 887 supersedes any inconsistent provision of any other State or local law that conflicts with the provisions of the bill. The measure does not limit the authority of a managing official to regulate the competent and efficient operation and management of a State correctional facility by reasonable means, including the transfer and reassignment of employees, but subject to certain conditions.

State Employee Appointments and Appraisals

Natural Resources Law Enforcement Officers – Appointment

Senate Bill 660/House Bill 989 (both passed) authorize the Secretary of Natural Resources to appoint without examination (1) a Department of Natural Resources (DNR) law enforcement officer who holds a commissioned rank to the rank of major; and (2) a DNR law enforcement officer who holds a commissioned rank of not less than captain to the rank of lieutenant colonel. Appointed officers under the bill will continue to serve at the pleasure of the Secretary of Natural Resources, and upon termination of an appointment, the Secretary may return the officer to a vacant officer position or promote the officer to a higher rank to which the officer became eligible for promotion during the appointment.

State Employee Appraisals

The Performance Appraisal Task Force, which consists of various State agencies and labor organizations, was established in November 2008 as a result of collective bargaining negotiations between the State and the exclusive bargaining representatives of State employees. The task force was charged with reviewing the current employee appraisal procedures and suggesting changes to increase both the effectiveness of employee performance appraisal evaluations and the overall completion of performance appraisals by supervisors. *House Bill 275 (Ch. 142)*, which alters the performance appraisal process for employees in the State Personnel Management System, reflects the recommendations of the task force.

Employee performance appraisals continue to be conducted semiannually, but the enactment establishes that one annual appraisal – the mid-year performance appraisal – is an informal evaluation that is excluded from the grievance process. Under *House Bill 275*,

employees may only be given a rating of outstanding, satisfactory, or unsatisfactory in a performance appraisal, and employees are no longer required to participate in the performance appraisal process by preparing a self-assessment. Finally, the new law allows anonymous surveys to be used to evaluate the performance of managers or supervisors only if their supervisors requires them.

Pensions and Retirement

Retiree Pension Benefits

Each year, retirement allowances paid to retirees and beneficiaries of the State Retirement and Pension System (SRPS) are adjusted automatically for inflation. All cost-of-living adjustments (COLAs) are based on average annual changes to the Consumer Price Index for all urban consumers (CPI-U) but vary in size by retirement or pension plan. Except in very limited circumstances, the various statutory COLA provisions do not prohibit a negative adjustment; however, prior to 2009, the CPI-U had not had a negative change since automatic COLAs were first instituted in the early 1970s. The CPI-U declined by 0.356% over the previous year as of December 31, 2009. This decline would have resulted in a negative adjustment for fiscal 2011.

Senate Bill 317/House Bill 775 (Chs. 56 and 57) require that retirement allowances for most SRPS retirees not be subject to COLAs in fiscal 2011 if the average change in the CPI-U from 2008 to 2009 is negative. If COLAs are not applied in fiscal 2011, then fiscal 2012 retirement allowances must be reduced by the difference between fiscal 2010 allowances and the allowances that would have been paid in fiscal 2011 if COLAs had been applied. The Acts do not apply to retirees of the Legislative Pension Plan or the Judges' Retirement System, whose benefits are linked to the salaries of active legislators and judges, respectively. The Acts also require the SRPS Board of Trustees to study options for addressing future situations in which the CPI-U is negative and report its findings and recommendations to the General Assembly.

Senate Bill 508/House Bill 768 (both passed) were prompted by the discovery during the summer of 2009 that retirement benefits for approximately 50 retirees of the Employees' Pension System (EPS) or the Employees' Retirement System (ERS) had been miscalculated based on erroneous compensation data provided by the Maryland School for the Deaf (MSD), resulting in overpayments to the retirees. The bills temporarily freeze, instead of reduce, the retirement allowances for EPS/ERS retirees who previously had worked for MSD and had their retirement benefits miscalculated. When the frozen allowances equal the allowances that the retirees should be receiving in the absence of the miscalculation, including annual COLAs, the retirees resume receiving annual COLAs.

Reemployment Earnings Limitations

Several bills passed during the 2010 session address the conditions under which SRPS retirees may be reemployed without being subject to a benefit reduction. The reduction is equal

to the amount by which the sum of the reemployed retiree's current annual compensation and initial retirement allowance exceeds the member's average final compensation at the time of retirement.

House Bill 635 (passed) allows a retiree of the Judges' Retirement System (JRS) to be reemployed by any unit of State government without a reduction to the retiree's allowance. Currently, JRS retirees are exempt only if they are assigned temporarily to sit in a State court or if they are employed as a faculty member of a public institution of higher education. The bill prohibits a retiree from being rehired within 45 days of retirement. This prohibition, however, does not apply to a retiree who is assigned temporarily to sit in a State court. The bill also requires the Chief Judge of the Court of Appeals to report annually on the income and employment status of any JRS retirees covered by the bill's exemption. The bill terminates June 30, 2014. *Senate Bill 829 (passed)* excludes certain forms of compensation from the calculation of annual compensation used to determine a benefit reduction for a retiree of the Teachers' Retirement System or Teachers' Pension System who was a college or university faculty member on a 10-month contract and who is reemployed by the retiree's former employer. Specifically, the bill excludes bonuses, overtime, summer school salaries, and other forms of supplemental income from the determination of the retiree's annual compensation while reemployed.

State Retirement Agency Investments and Administration

Senate Bill 793 (passed) requires the SRPS Board of Trustees to submit an annual report to the General Assembly regarding its investments in venture capital funds. The report must list the names of and total amount invested in each venture capital fund that focuses on information technology, green technology, medical device technology, or bioscience. It must also provide the aggregate amount of SRPS assets invested by venture capital funds in companies headquartered in Maryland as well as businesses in each of the four industries listed above.

House Bill 926 (passed) requires the SRPS Board of Trustees to provide mailing addresses for State retirees not more than twice a year to a mail processing center to provide direct mailings on behalf of the Maryland Retired School Personnel Association (MRSPA). The bill also exempts MRSPA from current law requiring SRPS to notify retirees before it provides information about them to a public employee organization and requires the board to report to the General Assembly regarding any complaints it receives from retirees. The bill terminates June 30, 2011.

Retiree Health Benefits

Senate Bill 444/House Bill 771 (both passed) extend the termination date of the Blue Ribbon Commission to Study Retiree Health Care Funding Options by two years, until June 30, 2012. It also extends the deadline for submission of a final report by two years and requires the commission to submit an interim report by December 31, 2010. The commission is charged with developing a plan to fully fund the State's liabilities stemming from subsidized health benefits provided to State retirees.

Senate Bill 1000/House Bill 1294 (both passed) clarifies that employees and retirees of the Baltimore Metropolitan Council who were previously employees of the Baltimore Regional Council of Governments are eligible to participate in the State's group health insurance plan for employees and retirees.

Special Circumstances

During the 2010 session, the General Assembly passed several bills to allow a limited number of members or surviving spouses who are confronting unique circumstances to apply for or claim benefits to which they are not otherwise entitled. *Senate Bill 709 (passed)* allows the surviving beneficiary of a deceased member of SRPS plans to file an application for disability retirement benefits on behalf of the deceased member if the member filled out and signed a preliminary application or a disability application for disability benefits within a week before the member's death, and the application is received by the State Retirement Agency within 30 days after the member's death.

Senate Bill 480/House Bill 619 (both passed) allow a member of the Law Enforcement Officers' Pension System (LEOPS) who previously earned service credit in the noncontributory EPS while employed by the Harford County Sheriff's Office to transfer that service credit to LEOPS. Because of an extended break in service between the individual's membership in EPS and membership in LEOPS, the individual was not eligible to apply for the transfer under current law. *House Bill 1443 (passed)* allows a former member of EPS to purchase service credit toward early retirement for a period of time during which the individual was a contractual employee of the Wicomico County Health Department. The bills also allow the individual to join the State's group health insurance plan for employees and retirees as long as the individual receives a retirement allowance from the State.

Senate Bill 497 (passed) requires SRPS to consider an EPS retiree who (1) previously worked for the Maryland Court of Appeals, (2) died within 30 days of retiring in March 2008, and (3) selected the basic allowance as having died while still an active member of EPS. The bill entitles the individual's surviving spouse to a lump sum death benefit consisting of the return of the deceased member's employee contributions plus interest and an amount equal to the deceased member's average final compensation at the time of retirement.

Joint Committee on Pensions

As is its practice every year, the Joint Committee on Pensions sponsored several bills at the request of the SRPS Board of Trustees to clarify, update, or correct provisions of existing pension law. The General Assembly passed all of these bills.

Senate Bill 495/House Bill 770 (both passed) clarify that a survivor benefit may be paid to the surviving spouse or children of a deceased former member of SPRS who retired with a deferred vested allowance. *Senate Bill 496/House Bill 773 (both passed)* clarify that unused sick leave credit may not be used in calculating creditable service for the purpose of qualifying for the Deferred Retirement Option Program under LEOPS. *Senate Bill 498/House Bill 774*

(both passed) raise the cap on average final compensation from \$10,000 to \$25,000 under which retirees of the employees' retirement and pension systems and the teachers' retirement and pension systems are exempt from the reemployment earnings limitation described above.

Senate Bill 550/House Bill 1134 (both passed) require local governments that elect to participate in any of several retirement or pension systems administered by SRPS to submit the necessary documentation to SRPS by July 1 of the first fiscal year following the local government's election to participate in the State system. If the local government does not meet the statutory deadline, its enrollment in the State system is delayed by one year. *Senate Bill 567/House Bill 772 (both passed)* repeal provisions that allow members of the noncontributory portion of EPS who are subject to member contributions to withdraw their contributions and interest and still receive a pension benefit based solely on employer contributions.

Benefit Sustainability Commission

The Budget Reconciliation and Financing Act (BRFA) of 2010, *Senate Bill 141 (passed)*, establishes a Public Employees' and Retirees' Benefit Sustainability Commission, which is charged with studying and making recommendations with respect to all aspects of State funded benefits and pensions provided to State employees and public education employees. A specific charge is to evaluate a proposal included in the version of the BRFA that passed the Senate to share a portion of teacher retirement costs with local school boards; the cost-sharing proposal was not included in the final version of the BRFA that passed both houses. In addition, another cost-saving proposal, *Senate Bill 959 (failed)* proposed that local school boards pay the share of teacher pension costs stemming from annual salary increases and new hires.

The commission may also choose to examine the State's pension funding policies. *Senate Bill 1061/House Bill 1379 (both failed)* proposed phasing out the current "corridor" funding policy over five years and establishing a "partial funding rate" of 90% of the full actuarial rate as the new default contribution rate.

General Assembly

Legislative Compensation

In accordance with the requirements of the Maryland Constitution, a General Assembly Compensation Commission convenes every four years to determine whether the salaries and benefits paid to legislators should be increased during the next following term of office. Unless the General Assembly affirmatively acts to lower the amounts, or reject the increases completely, the commission's recommendations automatically take effect. *Senate Joint Resolution 5 (passed)* rejects the commission's recommended salary and benefits increases and modifies provisions relating to legislative pensions.

Compensation Commission Recommendations

The General Assembly Compensation Commission report submitted at the beginning of the 2010 session recommended that salaries remain at current levels for the first two years of the next term of office – \$43,500 for members and \$56,500 for presiding officers. The commission also recommended that if the State’s annual unemployment rate was 5% or lower for calendar 2012, the salary for members of the General Assembly would increase to \$45,500 on January 1, 2013, and remain at that level for calendar 2014. A similar \$2,000 increase would take effect for the presiding officers, to \$58,500. Under the commission’s recommendation, if the State unemployment rate for calendar 2012 was greater than 5%, but 5% or lower for calendar 2013, the salary for members of the General Assembly would increase to \$45,500 only for calendar 2014. Compensation for presiding officers would also increase by \$2,000 under those conditions.

The commission recommended that the annual in-district travel allowance should increase from \$500 to \$650. The commission’s plan also would have replaced the current \$225 per-day limit for reimbursement of approved out-of-state travel expenses with a requirement that such reimbursements be subject to the most current published federal General Services Administration (GSA) daily per-diem rates for meals and lodging. The average reimbursement rate of \$222 under the GSA schedule is comparable to the current \$225 limit.

The commission recommended two changes to the Legislative Pension Plan that were not rejected. As a result, members who have served, or currently serve, in active duty military would be eligible to claim up to three years of military service credit after accruing eight years of creditable service in the Legislative Pension Plan. Second, the commission’s resolution repealed or amended two optional forms of retirement allowances due to Internal Revenue Service concerns that the optional allowances put the plan’s tax-exempt status at risk; similar changes were made to the employees’ and teachers’ plans administered by the State Retirement and Pension System. Those pension-related recommendations are not affected by the passage of [*Senate Joint Resolution 5*](#) and will be implemented in the next term of office.

Final Disposition

[*Senate Joint Resolution 5*](#) rejects the salary recommendations of the General Assembly Compensation Commission, and instead maintains the annual salaries, set in 2006, over the entirety of the next four-year term. The resolution also rejects the commission’s recommendations to alter in-district and out-of-state travel, pension credits, and retirement allowances.

Additionally, the resolution provides that membership in the Legislative Pension Plan will be optional for members serving in the 2011-2014 term of office.

Under the resolution, a member forfeits the benefits of his or her legislative pension if convicted of a crime, committed during the member’s term of office, that is a felony or serious misdemeanor relating to the member’s public duties. The convicted member will be entitled to a

return of the member's contributions, plus interest, but less any benefits already paid in the case of a retired member. The benefits would be restored if the conviction is overturned.

Legislative Redistricting – Counting of Prison Inmates

After the completion of the national census that is being taken this year, Maryland will redraw the boundaries of its legislative districts so that they will again be of substantially equal population. Under U.S. Census Bureau guidelines, inmates of a correctional facility at the time of the census are classified as residing in the correctional facility. Some of the State's largest prisons are located in low-population-density areas of the State, thereby skewing the numbers that are used to draw the new district lines. Prison inmates, almost without exception, have lost their right to vote while serving their sentences.

Senate Bill 400/House Bill 496 (Chs. 66 and 67) require that population counts used to create the 47 legislative districts of the General Assembly (as well as for congressional districts, county governing bodies, and municipalities) exclude incarcerated individuals in either State or federal correctional facilities who were not State residents prior to their incarceration. The Acts also require that incarcerated individuals be counted as residents of the local jurisdiction their last known address before their incarceration if they were State residents prior to their incarceration.

The average annual inmate population in State correctional facilities is approximately 27,000. The federal Bureau of Prisons reports 1,503 prisoners in the State's only federal prison. In addition, there are approximately 9,300 individuals in local detention centers, but those facilities are not included in the bills.

Constitutional Convention

The Maryland Constitution requires that every 20 years there be a statewide ballot question to "take the sense of the People in regard to calling a Convention for altering this Constitution." The requirement next applies to the general election of 2010. The Constitution further provides that if "a majority of voters at such election or elections" vote for the convention, the General Assembly must provide by law at its next session for the holding of the convention and the elections of convention delegates. This language has been interpreted to require a majority of the total number of voters in the election, not just those voting on the convention question, in order for a convention to be required. Any new constitution or amendment to the existing constitution adopted by a convention would be submitted to the voters of the State for ratification or rejection. *Senate Bill 26 (Ch. 9)* implements this requirement, placing the question on the November 2010 ballot.

A constitutional convention has never been called in accordance with this provision of the Maryland Constitution, although Maryland has otherwise held five constitutional conventions in the State's history, most recently in 1967-1968.

Audits of School Systems

Senate Bill 323/House Bill 189 (Chs. 58 and 59) remove the termination date on the requirement the Office of Legislative Audits (OLA) of the General Assembly conduct an audit of each local system. The new law clarifies that such an audit is to be conducted once every six years on an ongoing basis to evaluate the effectiveness of the financial management practices of the local school systems.

A 2004 enactment established procedures to ensure fiscal accountability of local school systems by providing for a legislative audit of each system at least once during the six-year period ending June 30, 2010. These procedures were developed after it was revealed in 2004 that two local school systems had deficits in their operating budgets. OLA reported that, as of January 2010, it had issued audit reports on 18 of the 24 local school systems. The audits contain over 300 recommendations addressing issues in 11 operational areas, such as procurement, information systems security, facility management, and transportation services. Audits for five other school systems are in progress, and the audit of the one remaining school system will be initiated during spring 2010.

Transparency

There was considerable interest this session in enhancing citizens' access to information about bills as they move through the legislative process, particularly regarding committee hearing procedures and the results of committee voting. Although no bills on this subject passed, several were referred for study during the 2010 legislative interim. In addition, the General Assembly directed that the Department of Legislative Services (DLS) post to the General Assembly's official Internet web site the final committee vote-tally on each bill, showing how each committee member voted.

Annotated Code

Code Revision – Washington Suburban Sanitary Commission (WSSC)

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 DLS, and the work is exhaustively reviewed by prominent members of the legal community prior to being introduced as bills.

Senate Bill 96 (Ch. 37) revises, restates, and recodifies the laws of the State relating to WSSC, which were previously codified in Article 29. Instead of creating a new article of the Annotated Code, which is the norm for Code Revision bills, the Act adds a new "Division II" to the existing Public Utility Companies Article, and it also renames the article to be the "Public Utilities Article." The decision to codify the nonsubstantive revision of the laws relating to

WSSC was based on the fact that as a State agency, it functions as a public utility that provides water and sewer services to Montgomery and Prince George’s counties.

Senate Bill 249 (Ch. 52), a companion bill to the revision, corrects cross-references to the new WSSC codification 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, DLS 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 470 (Ch. 72)*, and the Annual Curative Bill, *Senate Bill 469 (Ch. 71)*, respectively. Neither enactment contains any substantive change.

Statutory Legislative Committees

Joint Committee on Unemployment Insurance Oversight

Senate Bill 34/House Bill 267 (both passed) continue the Joint Committee on Unemployment Insurance Oversight as a permanent statutory committee. The joint committee was created in 2007 to study the State’s unemployment insurance system, examine the need for alterations in the system in order to maintain the Unemployment Insurance Trust Fund, and ensure fairness of the system. The joint committee had been scheduled to terminate on December 31, 2010.

The bills also require the joint committee to conduct a study of how State and federal unemployment insurance law relate to seasonal industries. The report is to be submitted by December 1, 2010.

For further discussion of these bills, see the subpart “Unemployment Insurance” within Part H – Business and Economic Issues of this *90 Day Report*.

New Study Committees and Task Forces with Legislative Membership

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

Transportation Funding

Senate Bill 229/House Bill 710 (both passed) establish the Blue Ribbon Commission on Maryland Transportation Funding. The two-year commission will be charged with reviewing,

evaluating, and making recommendations on various matters relating to the Transportation Trust Fund, mass transit, and highways in Maryland.

The Transportation Trust Fund is a nonlapsing special fund that provides dedicated funding for transportation, particularly for highway construction and maintenance purposes. The fund consists of tax and fee revenues, operating revenues, bond proceeds, and fund transfers.

The commission is to consist of 28 members, including 2 members of the Senate and 2 members of the House of Delegates.

Minority Business Enterprise and Equity Investment Capital

Continuing the work of a similar task force that terminated last year, *Senate Bill 2/House Bill 222 (both passed)* establish the Task Force on the Minority Business Enterprise Program and Equity Investment Capital. The group will include two senators and two delegates among its members.

The State's Minority Business Enterprise (MBE) program establishes a goal that at least 25% of the total dollar value of each State agency's procurement contracts be awarded to MBEs, including 7% to African American-owned businesses and 10% to women-owned businesses. The task force created by the bills will study how to facilitate the acquisition of investment equity capital by MBEs in the State in a manner that (1) allows minority business enterprise owners to retain operational control of the business enterprise and (2) provides adequate protection to equity investors.

Nanobiotechnology

The Task Force to Study Nanobiotechnology is created by *House Bill 795 (Ch. 163)*. It will include one senator and one delegate among its members. Nanobiotechnology is defined as the engineering of functional systems or devices, particularly in the field of medicine, at the molecular level. The task force will study the benefits of this technology and the State's role in promoting it and is to report its findings and recommendations by January 1, 2011. The Department of Business and Economic Development and the Maryland Technology Development Corporation will staff the task force.

Universal Design for Learning

Universal Design for Learning is an approach to education curriculum design in which the curriculum is intentionally and systemically designed from the beginning to address students' individual differences. Universal Design for Learning specifically recommends the use of flexible instruction materials, techniques, and strategies.

Senate Bill 467 (passed) establishes a Task Force to Explore the Incorporation of the Principles of Universal Design for Learning into the Education Systems in Maryland. The task force, which will include one member of the Senate and one member of the House of Delegates, will study the concept and issue a report by the end of 2010.

Solar Hot Water Systems in Prince George’s County

The Task Force on Solar Hot Water Systems in Prince George’s County, created by *Senate Bill 1067 (passed)*, will study the development of a business plan to achieve substantial use of solar hot water systems in a way that saves money for Prince George’s County residents and businesses and that reduces carbon emissions. The task force will include among its membership one senator and one delegate who each represents the county.

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. 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. Some of these bills also contain substantive changes in a board’s powers and duties, and those changes are discussed in the appropriate subject-area parts of this *90 Day Report*.

- *Senate Bill 103/House Bill 134 (both passed)* extend the State Board of Landscape Architects until 2024.
- *Senate Bill 104/House Bill 135 (both passed)* extend the State Board of Chiropractic and Massage Therapy Examiners until 2022.
- *Senate Bill 145/House Bill 132 (both passed)* extend the State Board of Examiners in Optometry until 2023.
- *Senate Bill 146 (Ch. 40)/House Bill 131 (passed)* extend the State Board of Physical Therapy Examiners until 2022.
- *Senate Bill 147 (Ch. 41)/House Bill 130 (passed)* extend the State Board for Professional Land Surveyors until 2024.
- *Senate Bill 148 (passed)/House Bill 133 (Ch. 131)* extend the State Board of Pilots until 2022.
- *Senate Bill 149 (passed)/House Bill 136 (Ch. 134)* extend the State Board of Plumbing until 2023.

- ***Senate Bill 325/House Bill 501 (both passed)*** extend the State Board of Dental Examiners until 2021. For a more detailed discussion of changes to the laws relating to this board, see the subpart “Health Occupations” within of Part J – Health and Human Services of this *90 Day Report*.
- ***Senate Bill 326/House Bill 487 (both passed)*** extend the State Board of Waterworks and Waste Systems Operators until 2021. For a more detailed discussion of changes to the law relating to this board, see the subpart “Environment” within Part K – Natural Resources, Environment, and Agriculture of this *90 Day Report*.
- ***Senate Bill 327/House Bill 197 (both passed)*** extend the State Board of Barbers and the State Board of Cosmetologists, respectively, until 2021. For a more detailed discussion of changes to the laws relating to these boards, see the subpart “Business Occupations” within Part H – Business and Economic Issues of this *90 Day Report*.