

## **Part C**

### **State Government**

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#### **State Agencies, Offices, and Officials**

##### **State Agencies**

##### **African American History and Culture**

The Commission on African American History and Culture was first established, under a different name, in 1969. Among its duties, the commission is required to initiate, direct, and coordinate projects that further the understanding of African American history and culture. *House Bill 1253 (Ch. 162)* changes the membership and duties of the commission. The membership of the commission is increased from 9 to 21 members. In addition, the bill repeals requirements that the commission survey historic sites and coordinate the State's annual official observance of the Martin Luther King, Jr. holiday. Finally, the bill authorizes the commission to receive State money and broadens the scope of activities for which the commission may receive money to include educational activities or projects that further the understanding of African American history and culture.

##### **Commission on Civil Rights**

The Maryland Commission on Human Rights is charged with the enforcement of laws prohibiting discrimination in employment, housing, public accommodations, and State contracting. The name of the commission is changed to the Maryland Commission on Civil Rights under *House Bill 211 (passed)*. The bill specifies that letterhead, business cards, and other documents reflecting the renaming of the commission may not be used until all the documents already in print and reflecting the previous name of the commission are used.

##### **Impact of Immigrants in Maryland**

The duties of the Commission to Study the Impact of Immigrants in Maryland are to study the demographic profile of the State's immigrant population and the impact of immigrants on the State, as well as the economic and fiscal impact of immigrants in the State. The

commission was required to submit a report of its findings and recommendations by January 1, 2011, and was to terminate on May 31, 2011. However, **Senate Bill 15/House Bill 34 (both passed)** extend the reporting deadline and the termination date by one year to January 1, 2012, and May 31, 2012, respectively.

### **Community Services Reimbursement Rate Commission**

The Community Services Reimbursement Rate Commission is an independent unit that functions within the Department of Health and Mental Hygiene. **House Bill 58 (Ch. 94)** extends the termination of the commission by five years to September 30, 2016. For a further discussion of this issue, see the subpart “Public Health” within Part J – Health and Human Services of this *90 Day Report*.

### **The Military and Veterans**

The Maryland Veterans Commission advises the Secretary of Veterans Affairs on all matters relating to veterans’ issues. **Senate Bill 291 (passed)** alters the membership of the commission by requiring that the membership include one woman veteran appointed from the State at large, rather than the member being a representative of a women veterans organization in the State.

Before 2009, gifts to the Maryland Department of Veterans Affairs could only be used for expenses related to the Charlotte Hall Veterans Home. In 2009, the Maryland Veterans Trust Fund was established to allow monies donated to the department to be used for other veteran-related purposes. According to the department, some potential donors prefer giving money directly to the Charlotte Hall Veterans Home, rather than giving to the trust fund. Under **Senate Bill 227/House Bill 332 (both passed)**, the Charlotte Hall Veterans Home is authorized to accept gifts and grants for the use of the home and, unless the gift or grant requires otherwise, use the principal and income of the gift or grant for use at the home. The Director of the Veterans Home Program is required to submit an annual report regarding the status and gifts accepted by the home.

**Senate Bill 682/House Bill 793 (Chs. 81 and 82)** reenact provisions of law that are abrogated as of May 31, 2011, to require the continuance, subject to the limitations of the Department of Health and Mental Hygiene’s budget, of the coordination and provision of behavioral health services to eligible veterans. For a more detailed discussion of this issue, see the subpart “Public Health” within Part J – Health and Human Services of this *90 Day Report*.

Several bills grant or modify benefits or assistance that the State provides to veterans and their spouses. Under **Senate Bill 188 (passed)**, the Department of Natural Resources has the authority to issue an annual fishing license exemption to a governmental entity or nonprofit organization to take individuals with disabilities, who are serving or have served in the armed forces, fishing in State waters. **Senate Bill 167 (passed)** extends the time period from one to four years after discharge in which an honorably discharged veteran must submit specified documentation to qualify for an exemption from paying out-of-state tuition at a community college or public four-year institution. Medal of Honor recipients are exempt under

*Senate Bill 2/House Bill 1017 (both passed)* from being charged a fee by the Motor Vehicle Administration for the renewals of a vehicle's registration or a Class A, B, C, D, E, or M driver's license. *Senate Bill 687/House Bill 998 (both passed)* require the Adjutant General of the Maryland Military Department, or the Adjutant General's designee, to assist the spouse of a member of the military who resides in the State or is transferred to the State in finding employment in the State if the assistance is requested.

## State Designations

Each year the POW/MIA flag is required to be flown on the State House grounds on certain days. Under *Senate Bill 124 (passed)*, a flag to honor and remember members of the armed forces who died in the line of duty is required to be flown as well. The flag is defined as a flag created by Honor and Remember, Inc. or the flag designated by the U.S. Congress as the official symbol to honor and remember members of the armed forces who died in the line of duty. If the U.S. Congress designates a flag, then that is the flag that is required to be flown. The bill also adds the third Saturday in May, for Armed Forces Day, and July 4, for Independence Day, to the list of days on which the flags are required to be flown.

## Elections

### Primary Election Dates

In 2009, Congress passed, and the President signed into law, the Military and Overseas Voter Empowerment Act (MOVE Act) which, among other things, requires states to send absentee ballots to military and overseas voters no later than 45 days before an election for federal office if a request is received prior to that time. Compliance with the requirement was problematic in 2010 for a number of states, including Maryland, that had primary elections scheduled relatively close to the November general election, which in turn did not allow enough time for general election ballots to be finalized and sent to voters 45 days prior to the election.

Maryland was able to comply with the 45-day requirement by sending separate ballots that included all federal contests to military and overseas voters (the MOVE Act requirement applies to elections for federal office) and then expediting delivery of full ballots, including federal, State, and local contests, to military and overseas voters eligible to vote in State and local contests, once the ballots had been certified. Other states for which compliance was problematic either moved their primary election dates or submitted requests for waivers from the 45-day requirement.

*House Bill 671 (passed)* moves Maryland's gubernatorial primary election date forward in the calendar year, from the second Tuesday after the first Monday in September to the last Tuesday in June, allowing the State to more easily comply with the MOVE Act. Moreover, the bill also moves Maryland's presidential primary date later in the calendar year, from the second Tuesday in February to the first Tuesday in April.

Prior to the 2008 presidential elections, many states, including Maryland, moved their presidential primary elections and caucuses forward in the calendar year in an effort to gain greater relevance in the nominating process for presidential candidates. Chapter 219 of 2007 moved Maryland's presidential primary date from the first Tuesday in March to the second Tuesday in February.

However, rule changes adopted by the Republican National Committee (RNC) and the Democratic National Committee (DNC) in 2010 and made applicable to the 2012 presidential elections, prohibit states from holding their presidential primary elections and caucuses prior to the first Tuesday in March, with exceptions made for Iowa, New Hampshire, Nevada, and South Carolina to hold their primaries/caucuses in February. RNC's new rules also require that Republican primary elections or caucuses held prior to April 1 (not including those held by the four states permitted to hold elections/caucuses in February) provide for allocation of delegates on a proportional basis. If followed by the states, the rule changes could result in a significant change from the 2008 nominating process when the majority of the elections/caucuses were held prior to March.

*House Bill 671* also makes procedural changes to the State election law, primarily to alter deadlines related to candidacy and the establishment of the content and arrangement of ballots.

### **Voter Registration Modernization**

The General Assembly passed legislation intended to utilize technology to make voter registration more accurate, efficient, and convenient. Over the past several years, the Pew Center on the States, a division of the Pew Charitable Trusts, has initiated a program to improve the accuracy of voter registration lists by facilitating the exchange of data among states concerning eligible voters. Pew has proposed an independent data center that would receive information from participating states from such sources as motor vehicle databases, U.S. Postal Service change of address records, and other sources. This data would then be run through a data matching engine to produce up-to-date profiles of registered voters and potential voters who are not yet registered. The center would provide this information to the states, which could use it to update registration records, purge ineligible voters, or conduct outreach to individuals who are eligible but not registered. The data center, known as the Electronic Registration Information Center (ERIC), would be operated, controlled, and funded by the states. It is expected that this program will simultaneously reduce the potential for fraud by eliminating invalid registrations and help prevent disenfranchisement by reducing administrative errors in processing registrations that prevent eligible individuals from voting. ERIC is expected to be launched in 2011 and fully utilized in the 2012 elections.

*Senate Bill 765/House Bill 561 (both passed)* authorize the State's participation in the Pew voter registration data matching project. The bills require State agencies to provide any data to the State Board of Elections (SBE) that the State Administrator of Elections deems necessary to maintain accurate voter registration lists. The bills also authorize SBE to enter into agreements to exchange data with other states for the purpose of maintaining accurate voter registration lists. Data that is not subject to public disclosure under the State's Public

Information Act may be exchanged with other persons as necessary for the sole purpose of maintaining accurate voter registration lists.

Additionally, *Senate Bill 765/House Bill 561* require SBE and the Motor Vehicle Administration (MVA) to report to the General Assembly by October 1, 2011, on plans to implement a fully automated voter registration system at MVA. A significant number of individuals who indicate that they wish to register to vote during a transaction at MVA are not ultimately registered because elections officials never receive the paper voter registration forms that are distributed at MVA offices. A fully automated voter registration system, modeled after a program in Delaware, would require individuals who wish to register at MVA to enter their voter registration information electronically, using a touch screen. That data would then be transmitted electronically directly to elections officials. MVA and SBE are committed to implementing this system, which is expected to significantly reduce the number of registration failures by eliminating reliance on paper forms that are not reliably returned to elections officials.

*Senate Bill 806/House Bill 740 (both passed)* implement another aspect of voter registration modernization by authorizing SBE to establish an online voter registration system. The system would allow an individual to electronically apply to become a registered voter or update the individual's existing voter registration record by accessing an Internet site. An individual registering to vote through the online system would complete the electronic application, submit a Maryland driver's license or identification card number, and consent to the use of the electronic copy of the individual's signature that is on file with MVA as the individual's signature for the application being submitted. If the individual is an absent uniformed services voter or overseas voter as defined in federal law, the individual could submit a Social Security number if the individual does not have a Maryland driver's license or identification card number. Individuals who wish to change their name, address, or party affiliation in an existing voter registration record through the online system would follow similar procedures, except that they could provide a Maryland voter identification number from their voter registration card to complete the transaction instead of a Maryland driver's license or identification card number or Social Security number. SBE is authorized to take additional measures to ensure the security of the online registration system and may adopt regulations to administer the system.

*Senate Bill 806/House Bill 740* also provide for funding to implement online voter registration. The bills require that a cumulative amount up to \$250,000 be transferred from the Fair Campaign Financing Fund (FCFF) to SBE in fiscal 2012 and 2013 for the purpose of implementing an online voter registration system. These funds must be used to pay costs that would otherwise be paid by local governments, which are responsible for the cost of the system. The maximum amount that could be transferred is expected to be sufficient to cover the initial cost of developing the system. The FCFF is a special fund created to provide public financing for qualifying gubernatorial candidates. The fund was financed by donations made by individuals on their Maryland income tax returns. Although the donation line on the tax form was eliminated by legislation in 2010, there was approximately \$5 million in the fund as of March 2011. The Attorney General previously advised that because the fund has rarely been

used for its intended purpose and is essentially non-functional, it may constitutionally be used for other purposes that “fulfill the general intent of the contributors to enhance the electoral process.” Other uses of the fund, including a voting system study, implementation of an online campaign finance reporting system, and procurement of an optical scan voting system, were authorized by legislation in 2009 and 2010.

## **Campaign Finance**

### **Independent Expenditures**

In *Citizens United v. Federal Election Commission*, 130 S. Ct. 876 (2010), the U.S. Supreme Court empowered corporations and unions to spend unlimited amounts from their general treasuries for independent expenditures expressly supporting or opposing federal candidates. Following this controversial decision, Congress and many state legislatures considered measures to enhance disclosure of independent expenditures in election campaigns.

**House Bill 93 (passed)** represents Maryland’s response to the *Citizens United* ruling. State law does not currently require any reporting of independent expenditures. The bill requires a person who makes aggregate independent expenditures of more than \$10,000 in an election cycle for campaign material that is a public communication to file an independent expenditure report with SBE. An “independent expenditure” is defined as an expenditure expressly advocating the success or defeat of a clearly identified candidate or ballot issue that is not made in coordination with a candidate or ballot issue committee. A “public communication” is defined as a broadcast, cable, or satellite communication, newspaper, magazine, outdoor advertising facility, mass mailing or telephone bank to the general public, or any other form of general public political advertising. A “person” required to file an independent expenditure report includes an individual, business entity, labor organization, or any other organization or group, but does not include a campaign finance entity.

If the campaign material distributed by a person relates to a candidate, the independent expenditure report is due on the next date a campaign finance entity of a candidate is required to file a campaign finance report. If the campaign material relates to a ballot issue, the independent expenditure report is due on the next date a ballot issue committee is required to file a campaign finance report. The report must cover the period from the beginning of the election cycle through the last day of the reporting period that precedes the report filing date. An additional report must be filed after a person makes aggregate independent expenditures of \$10,000 or more following the closing date of the person’s previous independent expenditure report.

Independent expenditure reports must include the identity of the person making the independent expenditures and any person exercising direction or control over the activities of that person, the business address of the person making the independent expenditures, the amount and date of each independent expenditure during the reporting period, and the candidate or ballot issue to which the independent expenditures relate. In addition, the identity of each person who made cumulative donations in excess of \$51 to the person making the independent expenditures during the reporting period must be disclosed. “Donation” is defined as the gift or transfer of



money or other thing of value to a person that is made for the purpose of furthering independent expenditures.

The treasurer or other person designated by an entity is required to file an independent expenditure report and is subject to the sanctions that apply to the responsible officers of a campaign finance entity for failure to properly file an independent expenditure report.

An entity required to file an independent expenditure report must provide notice of the expenditure through any regular, periodic reports it submits to its shareholders, members, or donors or by posting a hyperlink on its website to the Internet site where the entity's independent expenditure report information is publicly available. These requirements do not apply if the entity does not submit regular reports to its shareholders, members, or donors or does not have a website.

In addition to the requirements pertaining to persons making independent expenditures, the bill establishes identical reporting requirements for persons who make disbursements for electioneering communications. "Electioneering communications" are defined as (1) broadcast, cable, or satellite communications that refer to a clearly identified candidate or ballot issue; (2) are made within 60 days of an election day on which the candidate or ballot issue is on the ballot; (3) are capable of being received by 50,000 or more individuals in the constituency where the candidate or ballot issue is on the ballot; and (4) are not made in coordination with a candidate or ballot issue committee.

### **Electronic Media Electronic Contributions and Expenditures**

*Senate Bill 757 (passed)* is intended to update the campaign finance laws to reflect electronic methods of disseminating campaign material and transferring funds. The bill implements one of the recommendations of the Maryland Attorney General's Advisory Committee on Campaign Finance, which delivered its report on January 4, 2011. The bill repeals a requirement that a campaign finance entity make a disbursement only by check and instead authorizes SBE to adopt regulations approving electronic methods by which a campaign finance entity may make disbursements. An electronic method of making a disbursement approved by SBE must satisfy certain requirements, including that (1) the identity of the person making the disbursement may be verified; (2) the transaction is secure; and (3) there is an adequate record of the transaction. The bill also repeals a requirement that a contribution of money to a campaign finance entity in excess of \$100 be made only by check or credit card. SBE is authorized to adopt regulations approving additional electronic methods of making contributions. Electronic methods of contributing to a campaign finance entity approved by SBE must satisfy the same requirements as electronic disbursements, as described above.

*Senate Bill 757* also authorizes SBE to adopt regulations concerning the application of existing authority line and record retention requirements to campaign material disseminated through electronic media. Current law requires that campaign material include an "authority line" identifying the campaign finance entity or other person responsible for the material. The law also requires that a campaign finance entity retain a copy of each item of campaign material for one year after the general election following the date when the item was published or distributed. The increasing prevalence of electronic means of transmitting campaign material,

such as blogs, text messages, Facebook, Twitter, and YouTube, has raised questions about the application of these requirements to the new technologies. For example, it is not always possible or practical to include an authority line in each text message, or to retain an exact facsimile of every blog posting. *Senate Bill 757* authorizes SBE to adopt regulations addressing these issues. The regulations must require public disclosure of the identity of persons responsible for transmitting campaign material through electronic media and may modify the existing authority line and record retention requirements as they apply to electronic media to the extent necessary to accommodate a particular technology. The regulations would not apply to campaign material transmitted through television or radio.

### **Further Study of Campaign Finance Laws**

The Attorney General's Advisory Committee on Campaign Finance mentioned above was formed in the fall of 2010 to examine and develop recommendations regarding the State's campaign finance laws. In its January 4, 2011 report, the committee made various technical and administrative recommendations to improve the functioning of the campaign finance laws and also made recommendations on several important policy issues, including contribution limits and reporting of independent expenditures. *House Joint Resolution 7 (passed)* creates a Commission to Study Campaign Finance Law, which is charged to with examining a broad array of policy reforms. The joint resolution requires the commission to:

- examine the State election code as it relates to campaign financing;
- collect information about campaign financing practices and standards for other jurisdictions, including the federal government;
- consider specified issues related to campaign contributions;
- examine issues relating to the implementation of a voluntary system of public financing of campaigns for local, statewide, legislative, and judicial offices, including the costs and practical funding sources outside of the State's general fund;
- examine issues relating to the purpose and function of slates, including the process by which a candidate is added to and removed from a slate, the practice of creating statewide and regional slates among legislative candidates, and the role encompassed in the party committee model utilized in other jurisdictions for activities currently conducted in Maryland through slates;
- examine issues relating to the enforcement of election laws, including the roles and responsibilities of SBE, the Office of the State Prosecutor, and the Office of the Attorney General; and
- examine issues relating to opinions from the Office of the Attorney General, including the dissemination of letters of advice.



An interim report of the commission's findings and recommendations, including any proposed statutory changes to the Maryland campaign finance laws for consideration by the General Assembly in the 2012 session, must be provided to the Governor and General Assembly by December 31, 2011, with a similar final report, including any proposed statutory changes for consideration in the 2013 session, due by December 31, 2012. The commission terminates June 30, 2013.

### **Access to Voting Room and Voting Booth by Minors Not Eligible to Vote**

Aside from instances in which a voter requires assistance in marking or preparing a ballot because of a physical disability or an inability to read the English language (in which case a voter may choose any individual for assistance, with certain exceptions), State law allows for up to two individuals under a certain age to accompany a voter in the voting room at a polling place and into a voting booth, allowing a parent, for example, to have their child or children accompany them when they vote. Chapter 317 of 2004 increased the age limit for a minor individual that may accompany a voter other than for assistance, from 10 to 12. *House Bill 257 (passed)* further increases the age limit, allowing an individual up to the age of 17 to accompany a voter, provided the individual is not eligible to vote in the election.

### **Membership of Local Boards of Elections**

Most counties have a local board of elections made up of three regular members and two substitute members. Chapter 344 of 2010 altered the membership of the local boards of elections in Somerset, Wicomico, and Worcester counties to each consist of five regular members instead of three regular members and two substitute members. Three of the regular members must be of the majority party and two must be of the principal minority party. The changes take effect June 6, 2011, when the next term of the local boards of elections begins. During the 2011 session, the membership of the boards of elections in Baltimore City and Allegany, Caroline, Charles, Frederick, Harford, and Washington counties were altered in the same manner, also effective June 6, 2011, pursuant to *Senate Bill 163/House Bill 148 (both passed)*, *Senate Bill 192 (Ch. 35)*, *Senate Bill 534/House Bill 954 (both passed)*, *Senate Bill 913 (passed)*, and *House Bill 604 (passed)*.

## **Ethics**

### **Local Public Ethics Laws**

Counties and municipalities are required, under the Maryland Public Ethics Law, to enact provisions to govern the public ethics of local officials relating to conflicts of interest, financial disclosure, and lobbying. Certain municipalities may be exempted or subject to modified requirements under specified circumstances. The provisions generally must be similar to State public ethics laws but may be modified to make the provisions relevant to the jurisdiction.

## **Baltimore City**

**Senate Bill 214/House Bill 267 (both passed)** specify that city employees and officials of the Baltimore City Health Department, the Baltimore City Police Commissioner and the civilian employees and police officers of the Baltimore City Police Department, and each member of and the employees of the Civilian Review Board are local officials subject to Baltimore City public ethics laws and not State public ethics laws. The bills also repeal a provision that explicitly subjected Baltimore City health and housing inspectors who inspect for lead hazards to financial disclosure provisions enacted by the city.

## **Prince George's County**

In light of recent scandals involving alleged corruption by elected county officials in Prince George's County, members introduced a number of bills to tighten public ethics requirements for local elected officials.

**Conflict-of-interest: Senate Bill 509 (Ch. 72)** prohibits the Prince George's County government from issuing a credit card to an elected county official or a member of county board of education. The Act also prohibits an elected county official from directly or indirectly soliciting a person to enter into a business relationship to provide anything of monetary value to a person if the person being solicited is seeking the success or defeat of county legislation, a county contract, or any other county benefit. This prohibition will not be construed to affect the validity of any legally enacted requirement or condition, as a part of a development project application approval, which is proposed and adopted on the public record at a public hearing the purpose of which is to mitigate the impact of development on nearby property owners.

**Lobbying: Senate Bill 509** also includes a provision requiring the lobbying provisions of the Prince George's County Local Public Ethics Law to prohibit lobbyists from receiving compensation that is contingent on the outcome of an executive or legislative action before the county government.

**County Board of Ethics:** The Prince George's County Code of Public Local Law already provides for a County Board of Ethics. To strengthen compliance with county ethics provisions and to utilize the present structure, **Senate Bill 509** codifies in State law the existing arrangement of a five-member board to be appointed by the county executive subject to the advice and consent of the county council. However, the Act strengthens the duties of the County Board of Ethics by requiring the appointment of an executive director of the board who will meet individually with each elected official of the county at least one time each year to provide ethics advice, assist elected local officials in the preparation of ethics-related disclosures and other filings, conduct ethics-related briefings for the benefit of elected local officials, and provide ethics-related information to inquiring individuals. The board is required to meet at least two times each year.

**Campaign Contributions:** State law currently prohibits an applicant or agent of an applicant for a development project in Prince George's County from making a payment to a member of the county council or the county executive during the pendency of an application and

prohibits the council member from voting or participating on the application if a payment was received by certain entities related to the member. *Senate Bill 902 (Ch. 91)* expands these prohibitions to include payments made to a slate to which a county council member belongs during the 36-month period preceding the filing of the development project application.

### **St. Mary's County**

*House Bill 505 (Ch. 126)* specifies that each commissioner and employee of the St. Mary's County Metropolitan Commission, a quasi-governmental body that supplies water and sewer services to the county, is a local official subject to St. Mary's County public ethics laws.

## **Procurement**

### **Minority Business Enterprise Program**

The State's Minority Business Enterprise (MBE) program establishes a goal that at least 25% of the total dollar value of each agency's procurement contracts be awarded to certified MBEs, including 7% to African American-owned businesses and 10% to women-owned businesses. There are no penalties for agencies that fail to reach these targets. Instead, agencies are required to use race-neutral strategies to encourage greater MBE participation in State procurements.

*Senate Bill 120/House Bill 456 (both passed)* extend the MBE program for one year, until July 1, 2012, and repeal the program's subgoals for women- and African American-owned businesses. This marks the fifth time since the MBE program assumed its present form in 1990 that it has been extended. Instead of the customary five-year extension, the program was extended by just one year because the disparity study mandated in statute, due to be completed in September 2010, was not finished until February 2011. Therefore, the General Assembly did not have sufficient time to review the need for the program and the report's various recommendations regarding the program's future structure. However, the bills declare the General Assembly's intent to eliminate discrimination against minority- and women-owned businesses in a specified manner based on the evidence of discrimination in the disparity study.

In addition to repealing the subgoals, the bills codify in statute and clarify existing regulatory provisions related to the granting of waivers from MBE participation goals in individual procurements, and authorize procurement units to exempt sole source, expedited, or emergency procurements from MBE contract goals if the public interest cannot reasonably accommodate their use. The bills also require the regulations developed by the Board of Public Works to implement the program to (1) establish standards to require MBEs to perform commercially useful functions on State contracts; and (2) include a requirement that procurement units work with the Governor's Office of Minority Affairs to exclude certain contracts from the MBE goals.

**Senate Bill 558 (passed)** requires a bidder or offeror on a State procurement contract to submit a written request for approval to amend the MBE participation schedule submitted with the bid or offer if an MBE listed on the schedule has become or will become unavailable, or is ineligible to perform the work required by the contract. The participation schedule may be amended only with the approval of the unit's procurement officer after consultation with the unit's MBE liaison. If a contract has already been executed, the MBE schedule may be amended only with the approval of the head of the procurement unit, and the contract must be amended.

The bill also extends the termination date for the Task Force on the Minority Business Enterprise Program and Equity Investment Capital by one year, until May 31, 2012, and requires the task force to report its recommendations and draft legislation to the Governor and General Assembly by December 1, 2011.

### **Promoting Energy Efficiency through Procurement Practices**

**Senate Bill 961 (passed)** allows State vehicles and State-owned heavy equipment to use other biofuels besides 5% biodiesel (B5) that is currently required to be used in 50% of diesel vehicles and heavy equipment owned by the State (subject to exemptions). However, the alternative biofuel must be approved by the U.S. Environmental Protection Agency (EPA) as a fuel or fuel additive or approved by the EPA Renewable Fuels Standards 2 Program.

The bill also authorizes the Maryland Transportation Authority to require a gasoline service facility located on the John F. Kennedy Memorial Highway (JFK) to sell B5 or other biofuel that meets EPA renewable fuel standards. Finally, it repeals requirements that gasoline service facilities located on the JFK be leased to at least two different companies in accordance with State procurement law, and a restriction that one person may not (1) be awarded a lease, (2) have the use of, or (3) have the right to market fuel under its trade name at more than one-half of the total number of service stations on the entire highway.

**House Bill 643 (passed)** prohibits State funds from being used to install or replace a permanent outdoor luminaire on the grounds of any building or facility owned or leased by the State unless the fixture meets specified criteria regarding energy efficiency and light emission. Subject to exemptions specified in the bill, the luminaires must:

- maximize energy conservation and minimize light pollution, glare, and light trespass;
- provide the minimum illumination necessary for the intended purpose of the lighting; and
- be a restricted upright luminaire if it has an output of more than 1,800 lumens.

### **Procurement Processes**

**House Bill 12 (passed)** prohibits public employers in the State from knowingly purchasing, furnishing, or requiring employees to purchase or acquire uniforms or safety equipment and protective accessories that are manufactured outside the United States. The prohibition does not apply if:

- either the item is not manufactured or available for purchase in the United States, or is not manufactured or available in reasonable quantities;
- the price of the item manufactured in the United States exceeds the price of a similar item manufactured overseas by an unreasonable amount; or
- the quality of the item manufactured in the United States is substantially less than the quality of a similar item not manufactured in the United States.

To allow for a more effective comparison of the historical costs for labor and supplies incurred by bidders or offerors on service contracts, **House Bill 466 (passed)** requires the Board of Public Works, in consultation with the Department of General Services, to adopt regulations requiring bidders or offerors on service contracts for janitorial services to delineate their costs by (1) labor; (2) cleaning supplies; and (3) projected man-hours to satisfactorily complete the service. Janitorial service contracts awarded to Maryland Correctional Enterprises, Blind Industries and Services of Maryland, the Employment Works Program, or a business owned by an individual with a disability are exempt from the requirement.

Somers Cove Marina was established in 1958 and was deeded to the Department of Natural Resources in 1980 by the City of Crisfield. Since 2008, the Somers Cove Marina Commission, established by statute, has overseen the marina's operation, including maintaining the Somers Cove Marina Improvement Fund. **House Bill 497 (passed)** authorizes the executive director of the Somers Cove Marina Commission to procure capital improvement, design, and maintenance projects. Goods, services, and capital improvement, design, and maintenance projects with an expected value of \$5,000 to \$200,000 are subject to the commission's existing procurement procedures, but those exceeding \$200,000 in value are subject to State procurement law and regulations. All procurements made by the marina that are funded by the proceeds of State bonds must be submitted to the Board of Public Works for approval.

**Senate Bill 479/House Bill 520 (both passed)** require firms that submit a bid or offer to provide Maryland Area Regional Commuter (MARC) train service to the State or a local government to disclose information about their direct involvement in the deportation of concentration camp victims during World War II. For a further discussion of these bills, see the subpart "Transportation" within Part G – Transportation and Motor Vehicles of this *90 Day Report*.

## Personnel

### State Employees

#### Impact of Budget Actions on State Employees

There are a number of budget actions that will affect State employees in fiscal 2012. For the first time in three fiscal years, no furlough or temporary salary reduction plan was included in the budget. In addition, a \$750 bonus is included for State employees who begin State service

prior to July 1, 2011, and are not in bargaining units that have received an alternative salary adjustment. The bonus will be spread across the 26 pay periods throughout the fiscal year.

Other budget-related personnel items, such as salary increments for employees performing at or above established standards, cost-of-living increases, and the State match of \$600 for employees participating in deferred compensation plans, however, were not funded. While the Budget Reconciliation and Financing Act of 2011 (BRFA), *House Bill 72 (passed)*, includes a provision that prohibits State employees from receiving merit increases prior to April 1, 2014, the bill also provides for a number of exceptions. Among these exceptions are increases necessary to retain faculty at the State's four-year public universities and salary increases for operationally critical staff (in fiscal 2012 only).

In fiscal 2012, the size of the regular State workforce will decrease by almost 1,100 positions. The Voluntary Separation Program is the largest source of the decrease; the program resulted in the elimination of 653 positions in January 2011. The General Assembly also eliminated 473 positions. In accordance with a provision designed to eliminate long-standing vacancies and produce savings through attrition, most of these legislative abolitions will be carried out by January 1, 2012.

### **State Employees in Independent Agencies**

The mandatory furlough/salary reduction plans of the past few years have made it more difficult for State agencies to reward, recruit, and retain employees. This problem has been particularly acute for independent agencies, such as the Maryland Automobile Insurance Fund (MAIF) and the Injured Workers' Insurance Fund (IWIF), because they compete with private-sector employers in the insurance industry.

#### **Maryland Automobile Insurance Fund**

MAIF is an independent, nonbudgeted State agency that provides automobile liability insurance for State residents who are unable to obtain it elsewhere in the private insurance market. The fund has approximately 378 full-time employees. Under current law, MAIF's Executive Director must appoint and remove MAIF staff in accordance with the provisions of the State Personnel and Pensions Article. MAIF employees are considered State employees and are members of the State Employees' Retirement and Pension Systems.

*Senate Bill 993 (passed)* specifies that MAIF employees are not subject to any State law governing State employee compensation, including furloughs, salary reductions, or any other general fund cost savings measure. The bill also repeals the requirement that the compensation of technical or professional employees be, whenever possible, in accordance with the State pay plan and reporting requirements regarding changes in MAIF's salary plans. Instead, under the bill, MAIF's Executive Director is charged with administering the compensation of personnel in specified technical or professional positions but only with the approval of the Board of Trustees of MAIF being necessary.



### **Injured Workers' Insurance Fund**

IWIF administers workers' compensation for the State and provides workers' compensation insurance to firms unable to procure insurance in the private market. IWIF is a nonbudgeted, independent entity that is funded solely from premium and investment income. IWIF employs about 380 individuals, and its employees are considered State employees and are members of the State Employees' Retirement and Pension Systems.

*Senate Bill 693 (passed)/House Bill 598 (Ch. 132)* specifies that IWIF employees are not subject to any State law, regulation, or executive order governing State employee compensation, including furloughs, salary reductions, or any other general fund cost savings measure. The Act also clarifies that IWIF's board is responsible for setting compensation rates for its employees and removes a provision of law requiring the board, to the extent practicable, to set compensation rates for IWIF employees in accordance with the State salary plan.

### **Collective Bargaining for Independent Home Care Providers**

Independent home care providers receive compensation for providing home care services to eligible adults. In 2007, Governor Martin O'Malley issued an executive order specifying that the State must recognize a provider organization designated by a majority of independent home care providers who participate in the Medicaid Waiver for Older Adults Program, the Medicaid Personal Care Program, the Living at Home Waiver Program, or the In-Home Aide Service Program for purposes of collective bargaining. In 2008, in accordance with the process established by the executive order, the American Federation of State, County, and Municipal Employees (AFSCME) Council 67 was certified as the exclusive representative of the individual home care providers bargaining unit.

In fiscal 2010, there were approximately 4,600 independent home care providers participating in the four programs covered under the bill. The total amount of reimbursement for these home care providers was \$159.7 million. Expenses attributed to the Medicaid Personal Care, Older Adults Waiver, and Living at Home Waiver programs are Medicaid costs, which are generally split evenly between State and federal funds. The In-Home Aide Service Program is funded solely with general funds. Independent home care providers are compensated as independent contractors.

*House Bill 171 (passed)* codifies collective bargaining rights for independent home 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 the collective bargaining agreement. A service fee provision is only allowable if nonmembers pay fees on a sliding scale in approximate proportion to the amount that each nonmember independent home care provider receives as reimbursement, and a service fee may not be charged for care given to an immediate family member. A provider who has religious objections to paying the service fee, should one be

successfully negotiated, will be allowed instead to pay an amount not to exceed the service fee to a charitable organization.

### **Collective Bargaining for Sworn State Law Enforcement Officers**

The Law Enforcement Officers' Bills of Rights was enacted in 1974 to guarantee police officers specified procedural safeguards in any investigation that could lead to disciplinary action. It extends to police officers of 23 specified State and local agencies. It does not grant collective bargaining rights. *Senate Bill 699 (failed)* would have established collective bargaining rights for sworn State law enforcement officers holding a noncommissioned rank who are represented by an exclusive employee representative over wages, hours, working conditions, and any other terms or conditions of employment. The bill would have allowed either party to declare an impasse and request a hearing before the State Labor Relations Board. The bill also would have required the use of arbitration in certain circumstances.

### **Collective Bargaining for Baltimore County Public School Employees**

*Senate Bill 430/House Bill 683 (both passed)* require the Baltimore County Board of Education to meet and confer by November 1, 2011, with the employee organization that is designated as the exclusive representative of a unit that consists of employees whose position requires an administrative and supervisory certificate and employees who are supervisory but noncertificated. Under the bill, the subject that is to be covered when the county and the employee organization, which the Council of Administrative and Supervisory Employees, meet and confer, is job titles to be included in the unit.

### **Maryland Department of Transportation Employee Grievance Procedures**

The Maryland Department of Transportation (MDOT) employs approximately 9,000 individuals who are responsible for statewide transportation planning and the development, operation, and maintenance of key elements of the transportation system. While most Executive Branch employees are members of the State Personnel Management System, MDOT employees are members of the independent Transportation Service Human Resources System. Under current law, MDOT employee grievance procedures include several levels of appeal, including an extra level of appeal to the Department of Budget and Management for disciplinary actions. MDOT employee grievance procedures must also provide the same levels of appeal provided to other State employees.

*House Bill 1184 (passed)* alters the appeals process for MDOT employees. When an unresolved dispute exists after an initial appeal, instead of requiring the referral of any unresolved matter to the Office of Administrative Hearings (OAH), the bill authorizes aggrieved employees to submit an appeal to OAH. The bill also deletes provisions authorizing appeals for disciplinary actions to the Secretary of Budget and Management or that Secretary's designee. Instead, the bill gives the Secretary of Transportation broad authority to establish appeal procedures for disciplinary actions through regulations and policy.

## Pensions and Retirement

### Comprehensive Pension Reform

The General Assembly passed comprehensive pension reform that affects pension benefits for almost all current and future State employees and public school teachers in the State. The reforms do not affect individuals who are already retired. The pension reform provisions were contained within *House Bill 72 (passed)*, the Budget Reconciliation and Financing Act of 2011 (BRFA), and were designed to address two distinct issues with regard to public employee pensions:

- the long-term sustainability of the State’s defined benefit pension plans; and
- the affordability of the State’s contributions to those plans.

The Governor initially proposed a series of pension reforms in the BRFA of 2011 that drew in part from the work and recommendations of the Public Employees’ and Retirees’ Benefit Sustainability Commission, which was created by Chapter 484 of 2010. The commission was charged with studying and making recommendations with respect to both State-funded health care benefits and pension benefits provided to State and public education employees and retirees. With respect to the State Retirement and Pension System (SRPS), the commission identified the following concerns that threatened its long-term sustainability and affordability:

- the gap between the system’s assets and liabilities had grown every year since fiscal 2000 so that, on an actuarial basis, the system had only 64% of the assets necessary to cover its liabilities;
- robust investment returns during the middle portion of the previous decade had done little to slow the expansion in the gap between assets and liabilities due to the overwhelming effects of recessions and financial market collapses in calendar 2001-2002 and 2008-2009; and
- the cost of pensions and other fringe benefits for State employees and teachers have been growing, and are projected to continue to grow, faster than general fund revenues. From fiscal 2002 to 2011, general fund revenues grew by 39%, but State employee fringe benefits (including pensions) grew by 59%, and the cost of pensions for local employees (including teachers, public librarians, and community college faculty) grew by 159%.

The commission concluded that the current pension benefit structure was not sustainable and recommended that the State adopt dual goals of achieving actuarial funding levels of 80% within 10 years and 100% within 30 years.

In the BRFA of 2011, the General Assembly adopted the following changes to the SRPS benefit structure, which are divided between those affecting individuals who are active members

before July 1, 2011, and those affecting only new members hired after June 30, 2011. The General Assembly also adopted changes to the system's funding model.

### **Current SRPS Members (Hired Before July 1, 2011)**

**Cost-of-living Adjustments (COLAs):** Under current law, all SRPS retirement benefits are adjusted automatically to account for annual inflation, but the size of the adjustments vary by plan. Retirees of the Employees' Pension System (EPS) and Teachers' Pension System (TPS), the State's two largest plans, as well as the Law Enforcement Officers' Pension System (LEOPS) receive automatic annual COLAs linked to inflation, subject to a 3% cap. The State Police Retirement System (SPRS) and the Correctional Officers' Retirement System (CORS) also receive COLAs linked to inflation, but they are not subject to a cap.

The reform provisions passed by the General Assembly do not affect COLAs for individuals retired as of July 1, 2011, but do affect COLAs that current active members in EPS, TPS, LEOPS, SPRS, and CORS will receive when they retire. For service credit earned after June 30, 2011, the COLA will be linked to the performance of the SRPS investment portfolio. If the portfolio earns its actuarial target rate (7.75% for fiscal 2011), the COLA is subject to a 2.5% cap. If the portfolio does not earn the target rate, the COLA is subject to a 1% cap. For service credit earned before July 1, 2011, the COLA provisions in effect during that time still apply for each plan.

The COLA provisions do not apply to current or future retirees of the Judges' Retirement System (JRS) or the Legislative Pension Plan (LPP) because their benefit increases are linked to the salaries of current judges and legislators, respectively, and not limited to inflation rates.

**Member Contributions:** Beginning July 1, 2011, member contributions for current active members of EPS and TPS increase from 5% of earnable compensation to 7% of earnable compensation. Member contributions for current active members of LEOPS increase by 4% to 6% in fiscal 2012 and from 6% to 7% beginning in fiscal 2013. Member contribution rates for other SRPS plans remain unchanged.

### **Future SRPS Members (Hired After June 30, 2011)**

**Changes Affecting All Plans (Except JRS and LPP):** For all new members of SRPS, except for JRS and LPP, vesting increases from 5 to 10 years. The calculation of average final compensation (AFC) used to calculate retirement allowances for members of the EPS, TPS, and LEOPS will be based on the five consecutive years that provide the highest average compensation, rather than three years. For members of the SPRS and CORS, the AFC used to calculate retirement allowances will be based only on the five years that provide the highest average compensation; the five years do not need to be consecutive. Also, when those members retire, their annual automatic COLAs will be subject to the same contingent caps described above, based on the system's investment performance.

**EPS and TPS:** New members of EPS/TPS will pay a member contribution of 7% and receive a retirement allowance equal to 1.5% of AFC for each year of creditable service

(compared with 1.8% for current members). They will qualify for a normal service retirement benefit either upon reaching age 65 with at least 10 years of service or when the sum of their age and years of service reaches 90 (compared with age 62 with 5 years of service or 30 years of service regardless of age for current members). They will also qualify for an early retirement benefit at age 60 with at least 15 years of service (compared with age 55 for current members).

**LEOPS and State Police:** Member contributions for new members of LEOPS are 6% in fiscal 2012 and 7% beginning in fiscal 2013. New members of SPRS qualify for a normal service retirement upon reaching age 50 or with 25 years of service regardless of age (up from 22 years of service for current members). Members of LEOPS and SPRS continue to be eligible for the Deferred Retirement Option Program (DROP), but members who enter DROP after June 30, 2011, receive a lower interest rate on their DROP accounts. DROP allows members of these plans to officially “retire” but to continue working for up to four or five years while earning a full salary. During their time in DROP, their retirement benefits are deposited in an interest-earning account that is payable in a lump sum when they leave DROP. The pension reform provisions reduce the interest earned on DROP accounts from 6% interest compounded monthly to 4% interest compounded annually.

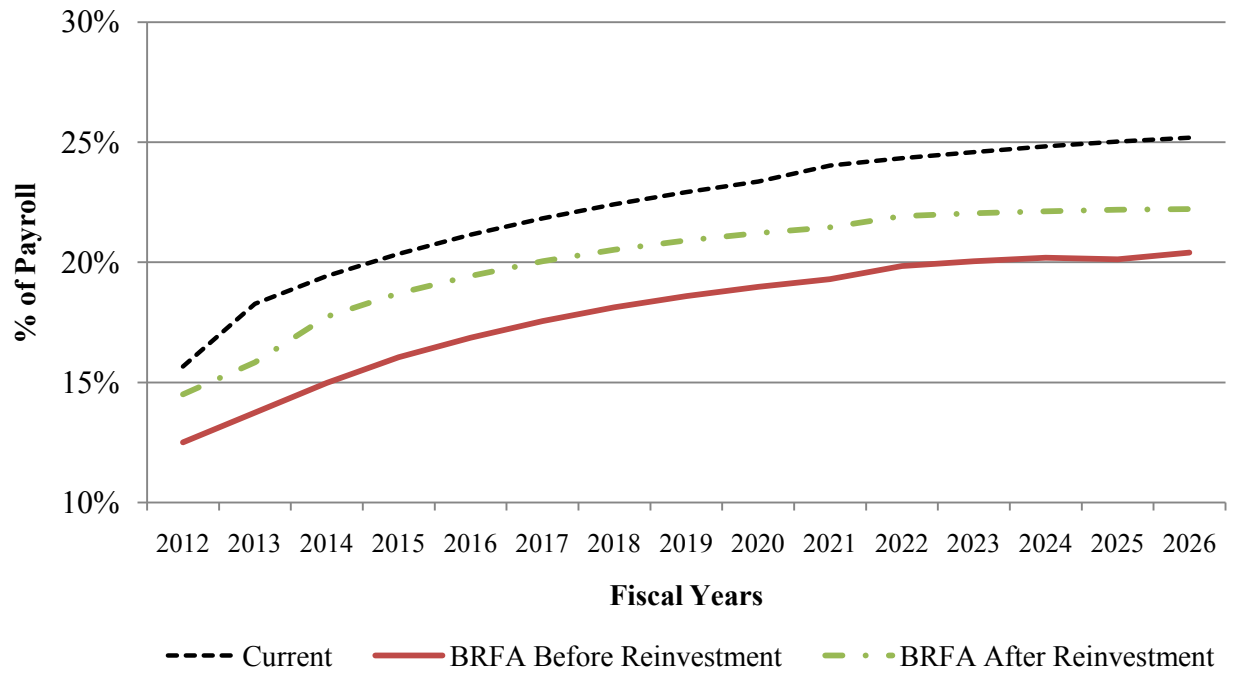
### **SRPS Funding**

Borrowing from the Benefit Sustainability Commission’s recommendations, the pension reform provisions of the BRFA of 2011 establish a goal of reaching 80% actuarial funding within 10 years by reinvesting a portion of the savings generated by the benefit restructuring into the pension system in the form of increased State contributions above the contribution required by statute. In fiscal 2012 and 2013, all but \$120 million of the savings generated by the benefit restructuring are reinvested, with the \$120 million dedicated to budget relief each year. Beginning in fiscal 2014, the amount reinvested in the pension fund is subject to a \$300 million cap, with any savings over that amount dedicated to budget relief.

The pension reform provisions also require local school boards and community colleges to pay their prorated share of the administrative costs of the State Retirement Agency (SRA), based on the number of their employees who are members of TPS or the Teachers’ Retirement System (TRS).

**Exhibits C-1 and C-2** show the effects of the BRFA’s pension reform provisions on the system’s projected cost (in terms of contribution rates) and funded status. Exhibit C-1 shows that the reforms reduce the maximum projected State contribution rates from more than 25% of payroll to about 22% of payroll, after accounting for the reinvestment of savings. This translates into a budgetary savings of more than \$300 million by fiscal 2022. Exhibit C-2 shows that the BRFA provisions achieve the statutory goal of 80% funding by fiscal 2023 due to the reinvestment of savings; in the absence of that reinvestment, the system’s projected funded status would be almost identical to current projections, with the system not reaching 80% funding until 2026.

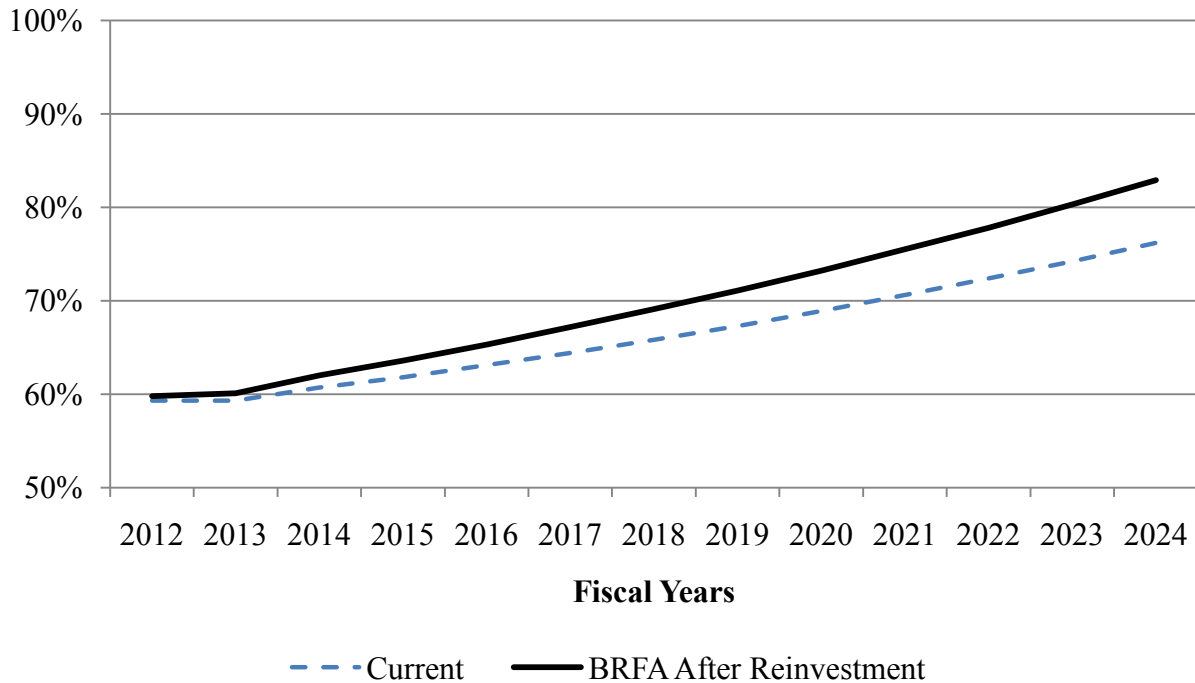
**Exhibit C-1  
Projected SRPS Aggregate Contribution Rates**



Source: Mercer, Inc.



**Exhibit C-2  
Projected SRPS Funded Status**



Source: Mercer, Inc.

**Retiree Health Care**

In addition to comprehensive reform of the State’s pension system, the BRFA of 2011 implements reforms to the State Health and Welfare Benefits Program. The Public Employees’ and Retirees’ Benefit Sustainability Commission recognized the need to address the State’s unfunded liability of \$15.9 billion for other post employment benefits. The commission recommended exploring options to reduce State expenditures for health benefits through a combination of plan design and employee share of premium costs. The commission also recommended increasing the minimum amount of service credit needed to be eligible for a retiree to participate in the State health program. Additionally, the commission recommended ending prescription drug coverage for Medicare-eligible retirees beginning in fiscal 2020.

**Prescription Drug Coverage:** Under the State health program, retirees and active employees are enrolled under the same prescription drug plan. The BRFA of 2011 authorizes the establishment of separate health insurance benefit options for retirees that differ from those for active State employees and requires the discontinuation of prescription drug coverage for Medicare-eligible retirees in fiscal 2020.

The bill requires the prescription drug benefit for retirees to have the same co-payments, coinsurance, and deductible that apply to the prescription drug benefit for active State employees. However, the share of the premium cost to retirees is increased to 25%, instead of 20%, while out-of-pocket limits are \$1,500 for a retiree and \$2,000 for a retiree and the retiree's family.

***Eligibility for Retiree Health Care:*** In addition to establishing a separate prescription drug plan for retirees, the General Assembly also altered the eligibility requirements for retiree health and prescription drug coverage for individuals hired on or after July 1, 2011. Those individuals become eligible for retiree health care coverage if the individual:

- ends State service with at least 25 years of creditable service;
- ends State service with at least 10 years of creditable service within 5 years before the age at which a vested retirement allowance normally would begin;
- retires directly from State service with a State retirement allowance and has 10 years of creditable service; or
- retires directly from State service with a State disability retirement allowance.

The State subsidy for retirees hired on or after July 1, 2011, is 1/25 for each year of the retiree's creditable service up to 25 years.

The existing eligibility requirements are maintained for individuals that began State service on or before June 30, 2011, and for retirees of JRS. These individuals still achieve eligibility for retiree health care coverage if the individual:

- ends State service with at least 10 years of creditable service and within 5 years before the age at which a vested retirement allowance normally would begin;
- ends State service with at least 16 years of creditable service;
- retires directly from State service with a State retirement allowance and has at least 5 years of creditable service; or
- retires directly from State service with a State disability retirement allowance.

The State subsidy for retirees that began State service on or before June 30, 2011, remains at 1/16 for each year of the retiree's creditable service up to 16 years.

## Pension Benefit Calculations

### Negative COLAs

As noted above, retirement allowances paid to SRPS retirees and beneficiaries are adjusted annually for inflation, but the amount and type of COLA varies by system. In general, the various statutory COLA provisions do not prohibit a negative adjustment when there is deflation. However, when the Consumer Price Index for all urban consumers declined in 2009 for the first time since 1954, legislation was passed during the 2010 legislative session to prevent the reduction retirement allowances in fiscal 2011. The legislation also required that COLAs in the succeeding year be adjusted to recover the difference between the negative COLA that would have been applied and the zero COLA. *Senate Bill 799/House Bill 727 (both passed)* permanently preclude annual COLAs from being less than zero. In years in which COLAs would be less than zero due to deflation, retirees and beneficiaries do not receive a COLA, but COLAs in succeeding years are adjusted until the difference between the negative COLA that would have applied and the zero COLA is fully recovered.

The bills also require SRA to review COLA provisions in State pension law for accuracy and clarity and to recommend changes to the Joint Committee on Pensions by November 1, 2011.

### Payment of Vested Allowances

SRPS members who reach normal retirement eligibility receive a benefit allowance only after they file for retirement. However, vested former members (*i.e.*, those who have separated from employment after having vested but before reaching retirement age) who request a vested benefit after their normal retirement age are entitled to a retroactive benefit payment to the date of retirement eligibility, plus applicable cost-of-living adjustments. *Senate Bill 947/House Bill 1312 (both passed)* prohibit members and former members of most retirement and pension plans within SRPS from receiving a retroactive vested benefit allowance if they file for vested benefits after their normal retirement age. These bills do not apply to any member or former member who on July 1, 2011: (1) has at least five years of eligibility service; (2) is separated from employment with a participating employer other than by death or retirement; and (3) has reached normal retirement age. In addition, these bills do not apply to JRS or LPP. The bills also clarify that members and former members who receive a refund of accumulated contributions are not entitled to further benefits.

### Military Service Credit

Any member or vested former member of SRPS who accrues 10 years of creditable service may receive one year of additional service credit for each year of active military duty performed prior to membership in SRPS, up to five years. The credit is granted at no cost to the member. *Senate Bill 356 (Ch. 59)* requires that the 10 years of service in SRPS that are necessary to claim and be granted military service credit for prior military service be earned through employment as a member of a State system.

## Reemployment of Retirees

In general, SRPS retirees may be reemployed, but they are subject to an earnings limitation if they are reemployed by the same employer for whom they worked at the time of retirement. For the purpose of calculating the earnings limitation, all units of State government are considered a single employer. If a retiree is reemployed by the employer for whom the retiree worked at the time of retirement, the retiree is subject to a dollar-for-dollar reduction to the retirement allowance by the amount by which the sum of the retiree's annual compensation and initial retirement allowance exceeds the retiree's average final compensation (AFC) at the time of retirement. Retirees of the Employees Retirement System (ERS), TRS, EPS, and TPS are not subject to the benefit reduction if they:

- have been retired for more than nine years;
- had an AFC less than \$10,000 and are reemployed on a temporary or contractual basis;
- serve as an elected official;
- are reemployed as a health care practitioner in specified medical institutions; or
- are reemployed as principals or teachers in underserved or underperforming schools, as specified in statute.

Several bills passed during the 2011 legislative session address the reemployment earnings limitation. *House Bill 176 (Ch. 106)* reduces from nine to five the number of years that a retiree of ERS, TRS, EPS, or TPS must wait in order to be exempt from the reemployment earnings limitation if the retiree is hired by the individual's last employer prior to retirement. *House Bill 634 (Ch. 136)* limits the amount by which the SRPS may offset a reemployed retiree's allowance to no more than an amount sufficient to pay the retiree's approved monthly medical insurance premiums, as established by the State or a participating employer from which the individual retired. *House Bill 1168 (passed)* allows a reemployed health care practitioner to maintain the exemption from the retirement allowance reduction for as long as the individual is reemployed on a contractual basis in an approved institution. Prior to fiscal 2010, these retirees had been subject to a four-year limitation on the exemption.

## General Assembly

### Joint Committees

#### Transparency and Open Government

The public's ability to obtain prompt, complete, and accurate information regarding official actions has been a growing demand at the local, state, national, and international levels of government. For several decades Maryland has had statutory provisions for guaranteeing access

to public records and requiring open meetings, but recent advances in technology have created new avenues for assuring transparency in government.

During the 2010 and 2011 legislative sessions, the General Assembly upgraded its website to include committee voting records on each bill that is voted on, live and archived video streaming of House of Delegates committee hearings, and live and archived audio streaming of Senate committee hearings. In addition, the Board of Public Works began transmitting live and archived streaming of its meetings. The General Assembly website already carried live and archived audio streaming of floor sessions of both houses of the legislature. Also, the General Assembly began offering “up-to-the-minute” service free of charge to the public, providing real-time bill status updates. Previously, that service had only been available for an annual fee of \$800.

*Senate Bill 644/House Bill 766 (both passed)* establish a Joint Committee on Transparency and Open Government within the General Assembly, consisting of six senators and six delegates. The new joint committee will provide continuing legislative oversight regarding transparency and open government and will recommend initiatives that increase citizen access to government resources, publications, and actions. The joint committee is also charged with:

- identifying areas in which the State can improve its technology and Internet websites to increase transparency and citizen engagement;
- making recommendations regarding State transparency goals and policies;
- consulting with State entities that foster transparency, including the Governor’s StateStat office;
- reviewing State laws, programs, services, and policies and making recommendations to align them with State transparency policies and goals;
- determining whether there are interdepartmental gaps, inconsistencies, and inefficiencies in the implementation or attainment of State transparency policies and goals;
- identifying laws, programs, services, or budgetary priorities that need to be adopted to ensure and promote transparency and open government in the State;
- surveying transparency initiatives in other states that have proven effective at saving public funds and resources and assessing whether those policies should be modified and adopted for use in Maryland;
- serving as an informational resource and liaison for advocates and citizens with ideas and suggestions for tools and practical implementation of initiatives that will increase transparency;

- reviewing and making recommendations regarding actions suggested by advocates and citizens to increase citizen access to government resources, publications, and actions; and
- recommending methods of increasing public awareness of government resources, publications, and websites.

The bills also make changes to the State's Open Meetings Act to eliminate the requirement of written minutes by a public body when live and archived video or audio of open sessions are made available, or when individual votes on legislation by members of the public body are posted promptly on the Internet.

### **Workers' Compensation Oversight**

*Senate Bill 1 (Ch. 5)* increases the size of the General Assembly's Joint Committee on Workers' Compensation Benefit and Insurance Oversight from 15 to 16 members by adding a representative of a self-insured local government entity.

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

Each year, the General Assembly creates study committees and task forces that will conduct in-depth studies of important public policy issues. The following bills relate to study committees and task forces that include members of the General Assembly in their membership. They are discussed in greater detail in the appropriate subject-area parts of this *90 Day Report*.

### **Campaign Finance Law**

The General Assembly, in the preamble to *House Joint Resolution 7 (passed)* stated that, for several reasons, "the time now seems ripe for...a fresh comprehensive look at the issue of campaign finance regulation and assess whether additional modifications to the campaign finance law are in order." To undertake that review and the development of findings and recommendations by the end of 2012, the joint resolution establishes a Commission to Study Campaign Finance Law to include 3 members of the Senate of Maryland and 3 members of the House of Delegates among its 17 members.

### **Medical Marijuana**

A comprehensive proposal dealing with the legalization of medical marijuana in the State was amended significantly prior to its passage. One component of the final version of *Senate Bill 308 (passed)* calls for the creation of a work group to develop a model program to facilitate patient access to marijuana for medical purposes. The work group will include two members of the Senate of Maryland and two members of the House of Delegates.



### **Electric Vehicle Infrastructure**

With electric motor vehicles coming onto the market as viable means of transportation, the General Assembly has identified a need to create an infrastructure – in particular the installation of residential and commercial electric vehicle charging stations – throughout the State. *Senate Bill 176/House Bill 167 (both passed)* create a Maryland Electric Vehicle Infrastructure Council, which will include one senator and two delegates that is charged with developing an action plan to facilitate the successful integration of electric vehicles into the State’s transportation network and to pursue other goals and objectives that promote the utilization of electric vehicles in Maryland.

### **Cybersecurity**

Maryland has become an epicenter for cybersecurity technology as the home of the National Security Agency, the Intelligence Advanced Research Projects Activity, the National Institute of Standards and Technology, and the Defense Information Systems Agency headquarters. In addition, Maryland will be the future home of the U.S. Cyber Command headquarters and will host the expansions of the intelligence and communications responsibilities at Fort Meade and at Aberdeen Proving Ground by the Department of Defense. This presents a significant opportunity for the State to attract private-sector cybersecurity enterprises. *Senate Bill 557/House Bill 665 (both passed)* establish a commission on Maryland Cybersecurity Innovation and Excellence to, among other duties, conduct a comprehensive review of the State’s role in promoting cybersecurity innovation and excellence and to develop a comprehensive strategic plan to ensure a coordinated and adaptable response to and recovery from attacks on cybersecurity. The commission will have among its members a delegate and a senator.

### **Historically Black Institutions**

*Senate Bill 347 (passed)* establishes a Task Force to Study the Impact of Adjunct Faculty on Graduation Rates at Historically Black Institutions. The task force is charged with making findings and recommendations regarding the relationship between the ratio of adjunct to full-time faculty at historically black institutions of higher education in Maryland and current disparities in retention and graduation rates in the State’s institutions of higher education. The membership of the task force includes two members of the Senate and two from the House of Delegates.

### **School Safety**

In response to the continuing interest in assuring the safety of students and staff in our schools, *Senate Bill 772/House Bill 79 (both passed)* establish a Task Force to Study the Creation of a Maryland Center for School Safety. Included in the duties of the task force is the development of a school safety training program, security criteria that local school systems may consider in the design of new school construction, and a model safety and security audit procedure for use by local school systems. Among the membership will be one member of the Senate and one member of the House of Delegates.

### **High School Dropouts in the Criminal Justice System**

To better understand the correlation between dropping out of high school and entering into criminal behavior, *Senate Bill 755 (passed)* creates a Task Force to Study High School Dropout Rates of Persons in the Criminal Justice System. The task force is charged with making recommendations on how individuals can be kept in high school until graduation and the availability of continuing education options for individuals who have not received a high school diploma while incarcerated. The task force will include two senators and two delegates.

### **Funding Spay/Neutering Programs for Pets**

*Senate Bill 639 (passed)* establishes a Task Force on the Establishment of a Statewide Spay/Neuter Fund to review ongoing successful spay and neuter programs in Maryland and other states and make recommendations regarding the establishment of a spay/neuter fund that best meets the needs of the State. The membership of the task force includes two senators and two delegates.

### **Green Technology**

*House Bill 758 (passed)* creates a Task Force on Funding a Green Technology, Life Science, and Health Information Technology Loan Assistance Repayment Program. The task force is to study and make recommendations on sources of funding for a green technology, life science, and health information technology loan assistance repayment program that assists graduates who earned a degree in one of those fields in the repayment of any federal or State higher education loan for which they are responsible. One senator and one delegate will serve as members.

### **Baltimore County School Board**

As a result of *Senate Bill 397/House Bill 398 (both passed)*, which create the Task Force on the Membership and Operation of the Baltimore County Board of Education, a study is to be undertaken for the purpose of making recommendations as to the ideal membership size of the Baltimore County Board of Education and the most appropriate way to select its members. The task force will include four members each from the county's House and Senate delegations, including the respective delegation chairs.

### **Baltimore County – Industrial Job Creation**

*Senate Bill 746 (passed)* establishes the Task Force on Industrial Job Creation in Baltimore County, which among its 10 members, is to include 1 member of the Senate and 1 member of the House. The task force is to review current State policies on job creation in industry, ship building and repair, and businesses that supply industry in Baltimore County and make recommendations on how the State can encourage new employers to locate in Baltimore County, retain employers located in the county, and encourage employees in the county to maintain or increase the number of their employees.

### **Solar Hot Water Systems in Prince George’s County**

**House Bill 306 (passed)** reestablishes the Task Force on Solar Hot Water Systems in Prince George’s County to develop by the end of 2011 a business plan to achieve substantial use of solar hot water systems in the county. One member of the Senate and one member of the House of Delegates will serve on the task force, and the membership, to the extent possible, is to include the same members of the task force that had been established on this issue in 2010.

### **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 of and termination dates for the following regulatory agencies were extended. Some of these bills also contain substantive changes in an agency’s powers and duties, and those changes are discussed in the appropriate subject area parts of this *90 Day Report*.

- **Senate Bill 84/House Bill 65 (both passed)** extend the Electrology Practice Committee of the State Board of Nursing for 10 years.
- **Senate Bill 89/House Bill 75 (both passed)** extend the State Board of Examiners of Psychologists for 10 years.
- **Senate Bill 90/House Bill 66 (both passed)** extend the State Board of Podiatric Examiners for 10 years.
- **Senate Bill 91/House Bill 67 (both passed)** extend the State Board of Architects for 10 years.
- **Senate Bill 92/House Bill 68 (both passed)** extend the State Board of Heating, Ventilation, Air-Conditioning, and Refrigeration Contractors for 10 years.
- **Senate Bill 93 (Ch. 24)** extends the State Board of Examiners of Nursing Home Administrators for 4 years.

- *Senate Bill 94/House Bill 69 (both passed)* extend the State Board for Professional Engineers for 10 years.
- *Senate Bill 103/House Bill 358 (both passed)* extend the Office of the Commissioner of Financial Regulation and the State Collection Agency Licensing Board for 10 years.
- *Senate Bill 235/House Bill 361 (both passed)* extend the State Board of Master Electricians for 10 years.
- *Senate Bill 236/House Bill 362 (both passed)* extend the Maryland Home Improvement Commission for 10 years and also extend the Maryland Mold Remediation Services Act for 3 years.

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

Because the General Assembly delegates a limited degree of 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 455 (Ch. 65)* and the Annual Curative Bill, *Senate Bill 454 (Ch. 64)*, respectively. Neither enactment contains any substantive change.