



REPORT FROM STATE CIRCLE
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BUDGET AND TAXATION

Governor O'Malley presented his proposed budget for 2013-2014 to the Legislature on Wednesday January 16. The total operating budget of \$37.3 billion is an increase of 4.3% or \$1.5 billion over last year's budget. This is in line with the recommendations of the Spending Affordability Committee which also recommended that the "structural deficit" be reduced by \$200 million to \$183 million. (It was \$2 billion). The Governor is not recommending any new taxes for the coming year. The House and Senate alternate as to which will first consider the budget. This year it will be the House.

Some highlights of the proposed budget include:

- A salary increase of 3% for state employees effective January 1, 2014 and step increases for eligible employees on April 1, 2014.
- An increase of \$206.2 billion to a total of \$6 billion for public education. The Geographic Cost of Education is fully funded.
- A 7% increase in funding for state colleges and university with a cap of 3% for tuition increases.
- A 3.3% increase in Medicaid including Children's Health Insurance to \$7.4 billion and an additional \$108.5 million in state and federal funds for the Health Benefit Exchange.
- \$31.2 million allocated to the Chesapeake Bay 2010 Trust Fund, double the fiscal 2013 appropriation.
- Increases in funding for cancer research, green energy projects, environmental initiatives, community services, and developmental disabilities and a new tax credit for a CyberMaryland Investment Tax Credit and increases in The Sustainable Communities Tax Credit and the Maryland Biotechnology Investment Tax Credit Reserve.

The budget reflects the transfer of one fourth of teachers' pension funds to municipalities. It also recommends shifting monies from a special fund from the transfer tax to the general fund and paying for environmental projects with bonds instead. The state will have to use general fund monies to help pay debt service on the increased bonding of recent years. Previously, proceeds from the state property tax have covered the debt service.

The Capital Budget has been proposed to be \$1.5 billion. Of this, \$336 million is proposed for public school construction, \$294 million for the Department of the Environment, and \$220 million for the University of Maryland as well as lesser amounts for a long list of capital projects. \$1.13 billion in general obligation bonds, \$37 million in general funds from the operating budget, \$282 million from special funds, \$87 million from federal funds, \$32 million in revenue bonds and \$4.5 million in Qualified Zone Academy Bonds will be used to pay for proposed projects. These amounts do not include any funding for transportation related capital projects. They are paid from the Transportation Trust Fund.

The Maryland Constitution requires that the budget be passed by both houses by the 83rd day of the Session or April 1. If the budget is not passed by April 1, the General Assembly must go into extended session where it may only address the budget and the cost of the extended session.

Barbara Hankins

ELECTIONS

HB 17 Elective Franchise – Registration and Voting at Polling Places (Reznick) This proposed constitutional amendment gives the General Assembly the power to enact a law to allow for a voter to register and vote on Election Day or at an early voting site. Current law provides that a registered voter's name must appear on the list of registered voters before she can vote, and voter registration closes 21 days preceding an election. Thirteen states have enacted some form of Election Day registration, and this election reform has been shown to improve voter turnout. Similar bills have been introduced in the General Assembly each year since 2009, but were never voted out of committee. No hearing date is yet scheduled for HB 137.

HB 137 Election Law – Proof of Identity (Kipke plus 33) would require a voter to produce government-issued photo identification, a voter notification card (issued by the local Board of Elections) or the specimen ballot mailed to the voter by a local Election Board. If a voter is unable to produce such identification or documentation, the voter would be issued a provisional ballot. Thirty-three states have now enacted some form of voter identification requirement, although the laws are not yet effective in three states. The League of Women Voters opposes all forms of voter identification requirement. Identical legislation was filed in the 2012 GA session, but no action was taken on the bill after the initial hearing. No hearing is scheduled for HB 137.

HB 170 – Election Law – Early Voting Centers (Clagett) This bill would require counties with fewer than 150,000 registered voters to establish at least one and not more than three early voting centers. Under current law, counties with less than 150,000 registered voters only have one early voting center.

Although it has not yet been introduced, the League has information that the Administration plans to introduce legislation that will expand the number of early voting sites as well as increase the days and times of early voting and will allow for same day voter registration at early voting sites. We will report on this legislation once it is introduced.

Lu Pierson

HEALTH

Maryland is moving forward rapidly with the Affordable Care Act (ACA) and the Maryland Health Benefit Exchange. In December the Exchange and the Community Health Resources Commission (CHRC) announced the initiation of the Access to Care program. This program will help foster cooperation and collaboration between the safety-net providers, the state and the health plans as they plan for insuring the uninsured next year. The Exchange and the CHRC anticipate that the safety-net providers will be instrumental in the implementation of the ACA.

Additionally, the Horizon Foundation and the Maryland Health Care for All Coalition asked the Lake Research to poll Marylanders on their knowledge and support or opposition of the Accountable Care Act. The underlying purpose of the poll was to determine how to educate Maryland residents on the ACA and the use of the Exchanges. The results indicated that a majority of Marylanders (59 percent) support the ACA with only 15 percent strongly against the act. About 22 percent are undecided. The Horizon Foundation and Health Care for All will work with other community organizations to educate the public on the ACA and the use of the Exchanges.

At this time there are very few health bills, but they will come. There are sure to be bills addressing issues of concern regarding the ACA and its implementation. For instance, there has been discussion of taxing physicians to fund the Exchange after this year. The estimated cost of supporting the Exchange infrastructure is in the neighborhood of \$30 million per year.

Also, the normal legislative “sunset” review of the Maryland Board of Physicians was deferred last year to this year to allow Dr. Jay Perman of the University of Maryland to study the Board’s functioning. He issued a lengthy report which included significant suggestions that are likely to be included in upcoming legislation reauthorizing the Board of Physicians statute.

There are a two bills addressing driving with minors. **HB 32, Drunk Driving – Transporting a Minor – Ignition Interlock System Program** would require anyone convicted of an alcohol related charge while driving a minor to complete the Ignition Interlock System Program. **SB 30, Prohibition of Smoking in a Vehicle Containing a Young Child** would require a fine of \$50 if found smoking with a minor less than eight.

Nielson Andrews

ENVIRONMENT: ENERGY

Marcellus Shale Hydraulic Fracturing Del. Heather Mizeur is expected to introduce legislation in the House and Sen. Bobby Zirkin and Jamie Raskin are expected to introduce legislation in the Senate next week that would place a moratorium on hydraulic fracturing for natural gas in Maryland until studies of safety and environmental protection are completed.

Del. Liz Bobo told an audience on Jan. 20 that she will introduce legislation in the House this week to permanently ban hydraulic fracturing in Maryland.

Funding of the studies became less of an issue when Gov. O’Malley announced on Jan. 16 that he is setting aside \$1.5 million in his state budget to study the risks of hydraulic fracturing.

A briefing on the Marcellus Shale for the Education, Health and Environmental Affairs Committee, Sen. Joan Carter Conway, Chair, and Sen. Roy P. Dyson, Vice Chair, is scheduled for Tues., Jan. 22 at 1:20 pm, 2 West Miller Senate Building, 11 Bladen St., Annapolis. Testimony is by invitation only but the public may attend. *Betsy Singer*

ENVIRONMENT: CLEAN WATER, THE BAY, PESTICIDES & LAND USE

The Governor's Budget for cleaning the bay and preserving open space The Chesapeake Bay Trust Fund is being funded in the proposed Governor's budget at \$31.5 million. This approaches the \$50 million anticipated when the Trust Fund was established in 2007, and the Governor's staff said full funding will come in succeeding years. The Fund was established to pay for projects to improve water quality. The Governor also included \$36.5 million in his capital budget for projects to further the state's compliance with the plan agreed upon with the EPA to control nutrients going into the Bay. Storm water regulation is an expensive part of this effort. The ultimate goal is to get Chesapeake Bay off the federal list of "dirtiest waters" by 2025. Legislation is being submitted that will help Maryland attain this goal.

Two other funds will be left intact--the Bay Restoration Fund (BRF) and the Program Open Space (POS). The BRF is a State-supported program that provides funding to replace existing septic tanks with nitrogen-reducing technology. Program Open Space (POS) acquires recreation and open space areas for public use and administers funds made available to local communities for open and recreational space.

No number has yet been assigned to the following bills: **Clean Water Healthy Families Package** (Sen. Frosh/ Del. Washington & Summers) The bills will improve stormwater utility requirements, ensure that dedicated funding sources and pollution regulations are protected, and enact legislation to keep trash out of our waterways.

Pesticide Information Act (Lafferty) This legislation would create a centralized online pesticide reporting database paid for by a modest fee increase for chemical manufacturers. It requires pesticide applicators and sellers of restricted use pesticides to report information they are already required to maintain so environmental and public health experts can determine whether pesticides are adversely affecting our health, our waterways, and safety.

The League has joined the Citizens Campaign for the Environment, a coalition of major environmental organizations that shares information and lobbying efforts. The CCE is sponsoring an Environmental Summit, January 29, at the Miller Senate Building from 4:30 to 6 p.m. The leaders in the House and Senate will advise us on progress expected in the Legislature on our environment priorities, and environmental advocates will make short speeches. All interested people are invited to attend the free event.

Susan Cochran

ENVIRONMENT: WINDPOWER

Last year's bill did pass in the House of Delegates (by 88-47), but -- for the second year in a row -- was stymied in the Senate Finance Committee. This year, the president of the senate has reconstituted the membership of the Finance Committee to include at least one more member who views the bill favorably.

The approach in the proposed bill is to provide incentives for the construction of a wind farm that would be in the mid-Atlantic, 10 miles off Ocean City. Approximately 100 ocean-based wind turbines would be capable of producing enough energy to power a quarter of the homes in Baltimore; this is also equivalent to producing electricity equivalent to 71 percent of the Eastern Shore's current demand.

The bill once again includes several provisions to protect consumers and stimulate Maryland's economy. The bill, as per last year, is to include a clause that limits increases in fees for ratepayers to \$1.50 per month; otherwise, the Maryland Public Service Commission would be required not to approve the proposal.

Under the bill, the company building the wind farm would receive an offshore renewable energy credit (OREC). A renewable energy credit (REC) is a subsidy given for energy produced from qualifying renewable resources. Besides providing a clean energy source, last year's estimates included that the offshore wind plan could create 1,800 construction jobs, including jobs for minorities.

The LWVMD was a strong supporter of the legislation last year, and expects to support it this year. *Linda Silversmith*

TRANSPORTATION

HB 150 Vehicle Laws – Accidents Resulting in Death or Life-Threatening Injury – Mandatory Drug and Alcohol Testing (Kipke et al) requires a driver to submit to a specific drug or alcohol test performed by a police officer if involved in an accident that results in a life-threatening injury or death. Hrg 1/30 at 2:30 p.m.

HB 158 Vehicle Laws – Child Safety Seats and Seat Belts - Penalty (Reznik et al.) increases the fine from \$25 to \$75 for failing to follow the law in transporting children in motor vehicles and repealing the requirement that court costs are included in the fine. Introduced in a prior session as **HB343**/cross-filed with **SB192** (King et al.). Introduced in a prior session as **SB460**.

HB 171 Motor Vehicles – Organ Donation – Presumed Consent (Clagett) assumes that an applicant for a driver's license or i.d. card has consented to be an organ donor unless applicant has specifically denied consent /cross-filed with **SB40** (Young)

SB 93 Transportation – Chesapeake Bay Bridge Crossing – Environmental Impact Study For a Third Span (Astle and Pipkin) requires the MTA to conduct or coordinate an environmental impact study at a set place to span the Chesapeake Bay. This is the third year for a similar bill. Hrg 1/23 at 2:30 p.m.

SB 193 Vehicle Laws – Prohibition on Handheld Telephone Use – Primary Offense if Child is Passenger (King et al.) This bill provides that if a child under 8 years is a passenger, the handheld use of a telephone while driving may be enforced as a primary offense.
Barbara Ditzler

ADMINISTRATION OF JUSTICE

HB 83 Judgeships - Court of Special Appeals, Circuit Courts and District Court (Speaker by request of Md. Judiciary) Increases the number of judges of the Court of Special Appeals from 13 to 15 and increases the number of resident judges of District Courts in Baltimore City and Charles, Montgomery and Prince George's counties. JUD

SB 156 Courts - Service of Process - Increase in Sheriff's Fees- Distribution to Rental Allowance Program (Brochin) Increases the fees for process of papers by a sheriff, requiring \$10 of the fees to go to a fund to be used only for the Rental Allowance Program of the Department of Housing and Community Development. JPR/EHEA

SB 172 Circuit Court for Anne Arundel County - Judges Sitting as Orphans' Court (Anne Arundel County Senators) A Constitutional Amendment that requires the judges of the Circuit Court for Anne Arundel County to sit as the county's Orphans' Court and repeals the requirement that Anne Arundel County voters elect three orphans' court judges. JPR

HB 129 Task Force to Study Implementing a Civil Right to Counsel in Maryland (Chair, JUD) Establishes a Task Force to study and make recommendations on the right to counsel in Maryland. This became an issue after the Court of Appeals ruled that an indigent defendant was entitled to representation at the bail hearing portion of an initial appearance. Prior to 2012, such counsel was provided only in Montgomery and Howard Counties and Baltimore City. Legislation in 2012 provides statewide legal representation at a hearing before a District Court of Circuit Court judge, but not at an initial appearance before a District Court Commissioner. JUD
Marlene Cohn

EDUCATION

Funding

The Budget Bill for Fiscal 2014 (HB100/SB125) provides \$6 billion for public education, a \$206.2 million increase from FY 2013. The Geographic Cost of Education Index is fully funded at \$130.8 million. An additional \$8.3 million begins a 5-year phased-in change in the calculation of the county net taxable income component of the education funding formula.

Proposed aid to non-public schools for purchase of textbooks, computer software, hardware and other electronically delivered learning materials is \$5,540,000.

The Budget Reconciliation and Financing Act (BRFA) of 2013 (HB 102/SB 127) limits reimbursement rate increases for nonpublic providers of education for students with disabilities to 2.5%.

Governance

SB115 County Board of Education-School Budget, Audit, and Procurement Information-Web Site Publication (Benson) would require county boards of education to develop and operate a searchable web site that includes specified information relating to school budgets, audits, and procurement by July 2014. Hrg 1/24, 1:30 p.m. EHEA

Public School Construction

School Construction Block Grant for Baltimore City The *Issue Papers: 2013 Legislative Session*, published by the Department of Legislative Reference in December 2012, reported on legislation proposed during the 2012 session that would allow Baltimore City to lock in its school construction funding as a \$32 million yearly block grant (as opposed to individual project grants) in order for Baltimore City Public Schools (BCPS) to leverage State funds with additional debt. The goal would be to borrow \$1.1 billion over four years to fast-track the construction and renovation to begin to alleviate the \$2.4 million need outlined in the city's Jacobs Report. The 2012 budget committees requested in the *Joint Chairmen's Report* that the Interagency Committee on School Construction (IAC) lead a group to study the proposal. Some of the issues involved in the study were (1) the creation and governance of a third-party (Authority) to oversee the financing and construction (as was done in Greenville, South Carolina); (2) the potential impact on the state's bond rating and other legal and tax implications; and (3) the impact on the whole public school construction program and other counties. The \$32 million yearly guaranteed amount would be similar to what Baltimore City has received recently, but legislators worry about the impact on other counties if the statewide budget for school construction was reduced. The text of **HB194 Baltimore City Facilities - Funding** (Anderson) assigned to APP was not available by our deadline.

On January 17, the Senate Budget and Taxation Committee heard a report on the IAC-led study and the BCPS Ten-Year Plan for construction and renovation and school closings to reduce excess space.

HB103 School Buildings - Solar Technology - Design Development Documents (Morhaim) requires the Board of Public Works to adopt regulations requiring design development documents for the construction or renovation of school buildings to include information relating to the use of solar technology and requires the IAC to report on the use of solar technologies to the Governor and the General Assembly yearly. HGO

Charter Schools

HB146/SB174-Education - Public Charter Schools - Capital Improvement Requests (Kipke/Anne Arundel County Senators) makes public charter schools eligible to receive State funds for school construction subject to approval of the county board of education and the IAC. APP and B&T

SB194 Education - Charter Schools - Study to Recommend Improvements to the Maryland Public Charter School Program (Kelley) requires the Maryland State Department of Education to conduct a study and provide recommendations to the Governor and the General Assembly regarding improvements to the Maryland Public Charter School Program. EHEA

School Safety

HB138 Video Lottery Proceeds - Education Trust Fund - Security and Mental Health Services at Public Schools (Kipke) authorizes the use of video lottery proceeds credited to the Education Trust Fund (ETF) to provide funds for security personnel and equipment at public elementary and secondary schools and for mental health services to students. Hearing 2/12, 1:00 p.m. W&M

HB165 Elementary and Secondary Education - Security - School Resource Officers (Cluster) requires school superintendents to have an agreement with appropriate law enforcement agencies to provide a school resource officer in each public elementary and secondary school with additional funding from the ETF. This emergency measure requires a 3/5 vote and would take effect immediately. W&M

SB143 Public Schools - Emergency Management Plans – Evaluation (Pugh) requires each county board of education to evaluate the effectiveness of the emergency management plan in each public school, recommendations for improvement and cost. EHEA

Lois Hybl

CHILDREN'S ISSUES

The Maryland General Assembly began with several prefiled and early bills to protect children from sexual abuse. This continues a pattern begun in the 2012 session when the abuse scandals at Pennsylvania State resulted in increased emphasis on child abuse prevention.

SB 52/HB 10 (Sen. Colburn; Del. Haddaway-Riccio) The bills prevent a court from awarding custody or visitation to a parent who has been convicted of sex abuse of a minor. The bills require the judge in a custody proceeding to take into account not only the "best interests" of the child but also whether either parent has ever committed sexual abuse of any

child. Unless the judge finds that there is no possibility that the child will be sexually abused, visitation and custody will be denied unless arrangements are made to protect the child from sexual abuse. These bills prevent the court from awarding visitation to a parent who may have abused a different child, not the one subject to the proceeding, without a finding that the child will not be the subject of sexual abuse.

HB 14 (Simmons and K. Kelly) and **HB31** (Arora and Dumais) are two similar bills. Both expand the definition of "a person in a position of authority" for a 4th degree sex offense to include employees of the school who work part-time. HB 14 adds coaches to those who may be charged with this offense. This bill fills a gap in current law which states that only full-time employees of a school can be charged with this offense. It increases the number of offenses law enforcement can use to prosecute those who might sexually abuse school children. Hrg 1/22 JUD

SB 214 (Jacobs et al.) entered as emergency legislation, integrates the two house bills, extending the definition of a person in authority to part-time employees including coaches. Children between the ages of 14 or 15 years old are protected from all sexual acts. This bill also prohibits an alleged abuser from using any violence or any threat of violence to coerce a victim. Protection is also extended to those who suffer from mental illness, developmental delays, or serious physical disabilities. As emergency legislation, the bill must be passed by three-fifths of the members and will take effect from the date it is enacted.

SB 215 (Forehand et al) clarifies the age at which a person can be considered a victim of trafficking minors for the purposes of prostitution. Earlier legislation defined the group simply as "minors." The present bill defines a minor as under age 21.

SB 86 (Chair JPR at the request of the Dept. of Human Resources) provides that a juvenile between the ages of 18 and 20 years 6 mos. can be continued or placed in a voluntary placement under the jurisdiction of the Juvenile Court, as long as the court determines that the placement is in the best interests of the young person. It also stipulates that the Juvenile Court cannot make such a placement if the young person left foster care under certain circumstances such as adoption or entering the army. No hearing date has been set. **Deborah Ehrenstein**

JUVENILE JUSTICE

Until now, no bills dealing with this subject have been submitted to the legislature.

Deborah Ehrenstein

DEATH PENALTY

To date no legislation has been introduced relating to capital punishment. However, Governor Martin O'Malley announced that "his administration would sponsor legislation to abolish death sentences in the state." (Baltimore Sun, January 16, 2013)

Doreen Rosenthal

MANDATORY MINIMUM SENTENCING

No legislation introduced to date.

Doreen Rosenthal

GUN CONTROL

HB28 Public Safety – Handgun Permits – Renewal Period for Retired Law Enforcement Officers (Cluster) deals with renewal of handgun permits for retired law enforcement officers. It extends from 2 to 5 years the time at which a permit expires and must be renewed.

HB35 Criminal Law – Wearing, Carrying, or Transporting a Handgun – Active Assignment Exception (K. Kelly) adds a sheriff or sheriff's deputy to the list of exceptions to the prohibition against carrying a handgun.

HB 38 Public Safety – Handgun Permits – Applicant Qualifications (Smigiel) repeals the requirement that the State Police find that a person has good and substantial reason to wear, carry, or transport a handgun before issuing a permit. Instead **HB38** proposes that the State Police issue a permit based on a list of criteria including demonstrated competence with a handgun.

NOTE: In March, 2012, Federal Judge Benson Legg declared unconstitutional a provision requiring that applicants for a permit to carry a weapon show they have “good and substantial reason.” According to Judge Legg, the existence of the right is all the reason needed. The State is appealing the decision. In an op-ed article in the Baltimore Sun by Maryland Attorney General Douglas Gansler (January 14, 2013) who has taken the case to the 4th Circuit Court of Appeals, vows to take it to the Supreme Court if necessary.

HB 90 State Government – Access to Public Records – Handgun Permit Records (K. Kelly and Kipke) Prohibits any State entity, which is the custodian of records, from disclosing any record that indicates that a person has or is applying for a permit for a regulated fire arm. The bill is in response to the situation in New York where a newspaper published and placed online an interactive map that identified the names and addresses of lawful gun owners.

HB107 Firearms – Detachable Magazines – Maximum Capacity for Ammunition (Gutierrez plus 27) reduces to 10 rounds the maximum capacity for ammunition of a detachable magazine for a firearm that can be manufactured, sold, offered for sale, purchased, received, or transferred; and reducing to 10 rounds the maximum capacity for ammunition of a magazine which, when used by a person in the commission of a felony or a crime of violence, results in that person being guilty of a misdemeanor and subject to specified penalties.

HB131 – Criminal Law – Access to Firearms – Penalties (Lafferty) Increases the penalty for leaving firearms in locations where individuals such as children or people who are prohibited from purchasing fire arms can access them.

Doreen Rosenthal

OPENNESS IN GOVERNMENT

During the interim between the 2012 and 2013 regular sessions, the Joint Committee on Openness and Transparency in Government (JCTOG) met to hear briefings on the Open Meetings Act and the Maryland Public Information Act. Information from these briefings by two Assistant Attorneys General indicates that citizen complaints about violations of the Open Meetings Act may be reviewed by the Open Meetings Compliance Board (OMCB) and the Board may find that the law has indeed been violated. However, the OMCB has no enforcement power. Thus violations go unpunished unless a complaining citizen files suit.

In the case of violations of the Maryland Public Information Act, complaining citizens have no administrative source of redress, except to appeal to the very agency which the citizen believes failed to act legally in the first place. Thus citizens who believe their rights have been violated must file suit in order to obtain redress. Given the cost and delays of filing suit, citizens effectively have no way to seek review of an agency’s decision.

In the 2012 regular session, Senator Getty introduced legislation (SB 557) intended to require meetings of the Maryland Public Secondary Schools Athletic Association be covered by the Open Meetings Act. This action was necessary to overcome a ruling by the OMCB that the association was not a public entity. The legislation failed.

SB 0230 (Getty, Ferguson) **Open Meetings Act-Public Body-Definition** is the 2013 version of the earlier failed legislation. This time Senator Ferguson who is Co-Chair of the JCTOG is a co-sponsor. This is the only legislation filed on the topic of Openness in Government by any member of the joint committee.

Barbara Schnackenberg

DRUGS, CONTROLLED DANGEROUS SUBSTANCES

HB 180 Medical Marijuana, permitting a patient with certain disorders and symptoms and a doctor’s prescription to access and use marijuana (Glenn et al.) A similar bill (HB 15) passed the house last session but there was no Senate action. During the special session, another marijuana bill passed JUD without further action. Another marijuana bill introduced during the first 2012 Special Session, HB 1809, passed out of the House Judiciary Committee but went no further. Hrg 2/5, 1:00 p.m. JUD

Alyce Ortuzar