



REPORT FROM STATE CIRCLE 2011



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Education, Health & Environmental

<u>Affairs (EHEA)</u>	
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Finance (FIN)

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Judicial Proceedings (JPR)

Brian E. Frosh, Chair	D 16
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HOUSE OF DELEGATES COMMITTEES

Appropriations (APP)

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Economic Matters (ECM)

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Environmental Matters (ENV)

Maggie McIntosh, Chair	D 43
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Health & Government Operations (HGO)

Peter A. Hammen, Chair	D 46
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Judiciary (JUD)

Joseph F. Vallario Jr., Chair	D 27A
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Ways & Means (W&M)

Sheila E. Hixson, Chair	D 20
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BUDGET AND MORE –
GO TO THE MARYLAND GENERAL ASSEMBLY WEBSITE AT <http://mlis.state.md.us>

BUDGET

Governor O'Malley submitted his proposed state budget bill (**SB 85/HB 70**) to the Legislature on Friday, January 21, The branches of the General Assembly alternate in first considering the budget. This year it will first be considered by the House. The Constitution requires that the budget bill be passed by the 83rd day of the session which is April 4 this year. If the budget is not passed by the 90th day, the Governor must call an extended session for continued consideration of the budget. The General Assembly has the power to reduce the budget but not to increase it. Although there are no tax increases proposed for the coming fiscal year, legislators may propose and pass them.

The proposed budget, which must be balanced, had to close a projected deficit of \$1.3 billion. Significant reductions include cutting \$250 million from Medicaid payments to hospitals; level funding of public education for a savings of \$100 million; \$60 million from aid to counties; and \$40 million from buyouts of 1,000 state workers. \$250 million in savings will result from the carry forward of current year reductions. Approximately \$430 mill will come from transfers into the General Fund of which as much as \$200 million will come from the capital budget as projects are paid for with bonds rather than current appropriations. \$60 million will come from the Transportation Trust Fund, \$20 million from the Chesapeake Bay Fund and \$200 million from the income tax reserve fund. There are no anticipated funds from the stimulus bill in the coming year.

The Governor has also proposed changes to the state employee's retirement fund but did not recommend transferring responsibility for any portion of the teacher's pension fund to local government. Pension payments for current employees would be reduced unless the employee agrees to pay a higher contribution toward his or her pension. The early retirement age would increase from 55 to 60. New employees would have to wait twice as long in order to be vested in the pension plan. The governor projects savings of \$100 million if his proposals are adopted.

Barbara Hankins

CAMPAIGN FINANCE

Two bills have been filed so far this Session: **SB 22** (Stone) would require, with some exemptions, that TV advertising by candidates for statewide offices include closed captioning; and **SB 119** (Kelley, et al) would specify that candidates or officeholders may not expend campaign funds for their personal use and that officeholders may not use campaign funds for maintenance and staffing their offices. Both bills have been referred to EHEA, with SB 22 scheduled to be heard on January 25. Neither bill is a League priority.

Our priorities this Session are:

Public funding: A League legislative priority over the past decade has been enactment of a Public Funding system for members of the General Assembly. The system would be voluntary and include spending limits. We have testified in favor of this legislation every year since 1998. Progress has been made in the past few years, with a bill reported favorably by the Senate Education, Health and Environmental Affairs (EHEA) Committee that came close to passing in the past two General Assembly sessions. The lead sponsor of the public funding bill in the Senate will apparently not submit a bill this year. We do, however, expect that a bill will be submitted in the House of Delegates.

Limited Liability Corporations (LLCs): The LWVMD has supported, again for many years, legislative proposals which would close the loophole which enables some owners of partnerships and limited liability companies (LLCs and REITs) to circumvent campaign contribution limits. Campaign contributions from multiple corporations owned by the same shareholders are deemed to be made by one contributor: that rule does not apply to LLCs or REITs.

We will support proposed legislation that will require that campaign contributions made by two or more LLCs be treated as being made by a single contributor if one LLC is a wholly-owned subsidiary of another, or the entities are controlled by the same individuals. A task force assembled by the Maryland Attorney General recently recommended similar changes to the law.

Other:

Slates: Transfers from a slate to a member of that slate need not be reported by the slate. We will support changes in the law to require disclosing which candidate receives late money and how much.

Independent Expenditures: We will also support disclosure of contributions from corporations and others who, without coordination with the candidate, fund campaign materials supporting or opposing a candidate.

Kay Terry

EDUCATION

As is often the case, some of the education bills filed in the early days of a new General Assembly session are essentially copies of bills that failed in previous years. Important among bills that died last year were several “maintenance of effort” bills that would have added criteria to existing law for the State Board of Education (SBE) to consider when a local government requests a waiver from the maintenance of effort standard. Currently, the SBE grants a waiver based solely on its determination that the county’s fiscal condition impedes its ability to fund the maintenance of effort standard, which requires each county to appropriate local funds equal to the local public school enrollment times the per pupil appropriation in the previous fiscal year.

SB 53/HB 44 - Education - Waiver from Maintenance of Effort Requirement - Process and Factors (Kasemeyer plus seven/Jones plus eight) are essentially the third reader versions of last year’s bills that failed in the waning moments of the 2010 session despite a conference committee agreement. Among the factors that **SB 53/HB 44** would add for the SBE to consider in deciding whether to grant a waiver would be loss of a major employer in the county, the county’s tax bases, rate of inflation versus student enrollment growth, the county’s history of exceeding the maintenance of effort requirement and significant reductions in state aid. (SB 53 hearing on 2/2 in B&T)

Two perennial bills have been introduced to date. **SB 41 - Education - Age for Compulsory Public School Attendance - Exemptions** (Pugh plus seven) would raise the compulsory student attendance age for 16 to 17. Although similar bills have been introduced off and on for at least 20 years and last year’s bill did pass the Senate, both Houses never seem to agree in the same year. Another perennial bill would change the method for calculating enrollment to determine state aid to each county. Currently, a school system’s enrollment is considered to be the enrollment on September 30 of the previous school year. **HB 26 - Education Funding Formula - Average Daily Attendance** (O’Donnell) would use a more complex formula that relates the sum of students attending school each day to the number of students enrolled each day in the second prior school year. (EHEA no action yet)

HB 1 - Education - Youth Athletes - Concussions (Davis) would require each local school board and the Maryland Public Secondary Schools Athletic Association to establish guidelines for evaluating head injuries and educating coaches, youth and parents about the risk of concussions and criteria for removal from and return to play.. These guidelines would also apply to youth athletes at private schools and after school sports programs. Guidelines were developed for public schools last summer, but the bill’s sponsor wants the guidelines to be applicable to all youth athletic activities. (W&M no action yet)

Lois Stoner

ELECTIONS

Legislative sessions immediately following an election often bring an uptick in election reform bills. In addition to numerous voter ID bills around the country, a representative of the National Conference on State Legislatures said she has been seeing a number of bills on primary elections — open vs. closed, primary dates, eliminating presidential primaries — and bills on military and overseas voting, electronic and universal voter registration and proof of citizenship. Some of these will no doubt come up in our 2011 GA Session. Other topics being considered in other states such as special elections, mail balloting and vote centers are not considered to be hot buttons for election reform in Maryland this session. The number of election related bills introduced so far in this session is limited.

Del. V. Turner pre-filed **HB 2 – Elections – Candidates – Filing Fees**, which would dramatically increase the amount candidates for federal, state and local office would have to pay to join the race. The bill specifies the exact amount that would be required for each office, for example it raises the fee to file for Governor, Comptroller, Attorney General and U.S. Senator from \$290 to \$2,000 and for State Senator from \$50 to \$1,000. Additionally, the bill requires that 25% of filing fees collected by the State Board of Elections be distributed in equal amounts to local Boards of Election. Not affected by the legislation are the conditions and process for receiving waivers of filing fees based on inability to pay.

HB 5 – Election Law – Days of Early Voting, pre-filed by Delegate V. Turner, would alter the days on which early voting would occur in future elections. Currently the law prescribes the dates for early voting for the 2010 and 2012 elections and includes Sunday voting in the presidential elections. HB 5 calls for limiting early voting to days from the second Thursday through the second Saturday before a regularly scheduled primary or general election, decreasing the current number of early voting days to 3 days. No hearing has been scheduled.

Repeating an effort of last year, Del. O'Donnell has introduced **HB 25 – Presidential Elections – Agreement among the States to Elect the President by National Popular Vote - Repeal**. No action was taken after a Hearing in the Ways and Means Committee on an identical bill filed last year. No hearing yet scheduled on this year's bill.

Delegates Rosenberg and Cardin have re-introduced this year a voting rights bill which passed the House last year 105-34 but didn't make it through the Senate prior to adjournment. **HB 31 – Voters' Rights Protection Act of 2011** would allow a registered voter to institute a circuit court action for injunctive relief if there is reason to believe a person has engaged in or is about to engage in violations of election law, and require the court to decide the issue as soon as practicable.

Senator Colburn has introduced as an emergency bill **SB 21 – Election Law – Delay in Replacement of Voting System**. In 2007 the General Assembly mandated a new voting system providing a voter-verifiable paper record beginning in 2010. However, the Governor didn't include funding for a new voting system in his 2011 budget. The Budget Reconciliation and Financing Act of 2010 required the Department of Legislative Services to hire a consultant to study issues relating costs associated with changing voting technology and the final report was issued in December 2010. The report found that the switch to the optical scan system would provide a costs savings of 9.5 million over the period FY 2013 – FY 2020. The budget introduced by the Governor indicates continued deployment of the DRE machines for budget year 2012. **SB 21** would require the State to continue using the touch screen voting system until payments for that system are concluded or until January 1, 2016, whichever is later.

Lu Pierson

ENVIRONMENT - ENERGY

The National League of Women Voters has a strong position on acting to ameliorate climate change – including the increased use of alternative energy uses that do not cause emissions of carbon dioxide or other greenhouse gases. Consequently, the LWVMD is interested in new proposals for legislation to enable offshore wind power facilities.

The proposed siting is about 10 miles off the coast of Ocean City, MD with perhaps 300 turbines involved. The key to affordability is bank funding that will come only if there are long-term commitments by the utility companies that transmit electric power to purchase wind energy. Similar legislation passed in Delaware and Massachusetts. New Jersey is looking into off-shore wind production facilities, and one interesting proposal is a transmission line connecting such facilities in waters off the east coast from NJ to NC.

According to press reports, a merger of the Dept. of the Environment and the Natural Resources Dept. is being considered. The ostensible reason is cost saving. If a bill is filed it will be interesting to see the fiscal note.

Another issue is whether a merger would increase efficiency.

Linda Silversmith

ENVIRONMENT – WATER

As the 2011 Legislative Session gets organized, there is the barest trickle of bills introduced concerning the health of our natural bodies of water. Briefings on the environment before the House Environmental Matters Committee and the Senate Education, Health and Environmental Affairs are being held by major citizen environmental groups and Maryland Departments in the next two weeks. Thursday, January 20, a briefing was held titled *State of the Chesapeake Bay and other Critical Environmental Issues*. Presenters were the Chesapeake Bay Foundation, Chesapeake Bay Commission, and the Maryland League of Conservation Voters. Further briefings on the environment before the House committee are scheduled on February first and second at 10:30 a.m. Briefings on environment are scheduled before the Senate committee on Tuesday January 25th at 1 p.m. Briefings are open to the public and proceedings are on the internet. Go to the Maryland General Assembly page.

HB 57 Bay Restoration Fund (Costa, Vitale) The bill would tweak the current law by introducing strictures regarding the use of grants or loans of Bay Restoration Funds for restructure and replacement of on-site sewage disposal systems versus connection to existing municipal waste water facilities or building of new community waste water systems. The funds would have to be used in a Priority Funding Area. Measures requiring consideration of cost efficiency of the alternatives and consistency with the county's comprehensive plan and water and sewer master plan as well as requiring that the on-site system to be upgraded or replaced were in place before the law affording the use of the Bay Restoration Fund became effective on Oct. 1, 2008.

HB 53 Commercial Dishwashing Compound - Prohibition (Hubbard) Extends to October 1, 2012 the expired exception for commercial dishwashers in the existing law prohibiting phosphorous in dishwasher compound content.

Susan Cochran

HEALTH CARE

The Maryland Health Care Reform Coordinating Council, under the leadership of Lt. Governor Anthony Brown and Secretary of Health John Colmers, met throughout the summer and fall in preparation for the General Assembly. The Council will recommend that the General Assembly create the framework for the Insurance Exchanges mandated by the federal Patient Protection and Affordable Care Act of 2010 to allow individuals and small businesses to compare and purchase health insurance products. How the Maryland Exchange will function has not been decided, but the council feels that forming the broad structure, establishing the makeup of the governing board, and deciding if it should be a non-profit or government agency will place Maryland well ahead of other states.

The Council also recommended the funding of a computer system to coordinate between the exchange and Medicaid. They think that many people will move between Medicaid and the exchange for insurance and they want it to be seamless.

The council is also suggesting that the General Assembly create an office of health reform. They will do this by moving existing state personnel positions to the new office.

In light of the recommendation to form an office of health reform, it is interesting that Governor Martin O'Malley announced the resignation of Secretary Colmers the first week of January and the appointment of Joshua M. Sharfstein, M.D. as Secretary of Health. Dr. Sharfstein's appointment will be one of the first orders of business in the new session. There is some thought that Secretary Colmers will head the new office of health reform if it is formed. There will be additional changes at the DHMH because John Folkimer, who has headed the Medicaid Program for many years, has retired, as has James (Jim) Johnson another significant staff member.

Del. Michael D. Smigiel filed several bills, one of which **HB 15** would negate the Federal health reform act by mandating the right to choose to purchase health insurance and mandating the right to self-pay for medical care.

As the budget is discussed in the coming weeks, Medicaid cuts could be at the top of the list of suggestions. It is likely that the cuts will come in physician/provider rates. Lt. Governor Brown expressed concern over the cuts because they are worried about physicians dropping Medicaid. Vincent DeMarco, president of Maryland Citizens Health Initiative, is also voicing concern. His group is supporting an increase in the alcohol tax by \$.10 a drink, which they would like designated to the Medicaid program.

Senators Klausmeier, Rosapepe, and Stone have filed **SB 5**, mandating physicians to notify patients in writing of specified information relating to professional liability insurance coverage and that the notification be provided to and signed by a patient at the time of the patient's first visit, and put in the physician's patient records.

Del. Smigiel also has filed several telemedicine bills for underserved areas. **HB 14** would require reimbursement for telemedicine in underserved areas and **HB 17** would establish a task force to study the viability of using telemedicine in underserved areas.

HB 1, filed by House Economic Matters Committee Chairman Dereck Davis would set new standards and guidelines for students and parents regarding concussions and head injuries. The bill would require removal of youth athletes from play under specified circumstances and prohibit them from returning to play when injured.

There are already more than four bills, some in the House and some in the Senate, governing abortion in response to the New Jersey physician who was doing late-term abortions in Maryland without a license and transporting patients from New Jersey to Maryland. **HB 18** from Del. Smigiel would require written reporting to the DHMH of every abortion done in the State.

Neilson Andrews

ADMINISTRATION OF JUSTICE

SB 17, Chair, Judicial Proceedings Committee (By Request - Maryland Judicial Conference) **Courts - Sentence Review-Review Panel** proposes to limit the criminal sentence review panel to 3 judges, one of whom can not be the sentencing judge. The panel can confer with the sentencing judge. If the review panel orders a different sentence, the sentencing judge may not take any further actions regarding the case of the defendant. The review panel members designate a judge from the review panel. In addition, it clarifies that a person convicted or found in violation of probation by a circuit court and sentenced to serve a sentence that exceeds 2 years in a correctional facility is entitled to a single review of the sentence imposed for the criminal conviction or the violation of probation but not both. (JUDP hearing 2/1)

SB 52 (Conway) **Elections - Candidates for Judicial Offices - Certificates of Candidacy & Campaign Finance Entities** proposes that newly appointed judges, those appointed to the judicial office since the last General Election, judges of the Circuit Court and judges of the Orphan's Court, may file a certificate of candidacy more than 2 years before the next General Election. A judge who intends to file a certificate of candidacy for a judicial office may not establish a campaign entity more than 2 years before the General Election for the judicial office unless the judge is newly appointed. (hearing 1/25)

HB 22 (Smigel) **Administrative Office of the Courts - Uniform Subpoena Procedures & Forms for Circuit Court Judges** proposes on or before 1/1/12 that procedures and forms used in Circuit courts in subpoenaing a person in civil, criminal or traffic matters be the same. Maryland Rules do not require that each circuit court adopt the same form or procedures, the circuit courts are local courts administered by the county in which they are located unlike the District Court of Maryland, which is a unified system. A similar bill HB 917 in 2009 by the same Delegate received an unfavorable Judiciary committee report. (JUD hearing 1/27)

Grace Kubofcik

DEATH PENALTY

Although no death penalty legislation had been filed before this RSC deadline, Maryland Citizens Against State Executions (MDCASE) has made clear that it will again seek repeal of our capital punishment law. It will also be pressing for public comment against re-introduced regulations governing execution by lethal injection. LWVMD is on record in opposition to capital punishment and was instrumental in having LWVUS adopt a position supporting repeal of all state and federal death penalty laws.

According to MDCASE the November election brought 12 new repeal-supporting members to the House of Delegates and three to the Senate. Last year efforts at repeal failed by a narrow margin, but compromise legislation was passed which makes it much more difficult to bring a capital case in Maryland. A current case, the first being tried under the new law, was stayed in mid-January pending receipt of guidance from the Court of Appeals on exactly how the case should be litigated under the new legislation.

Executions have been stayed in Maryland for the past several years because the Court of Appeals found fault with the lethal injection protocols formerly used. The Maryland Department of Public Safety and Correctional Services has now re-introduced regulations which are basically the same as those which expired last year following critiques from legal experts and citizens that they continue to use a drug outlawed for euthanizing animals.

On a wider scale the *New York Times* reported in December that nationally 2010 executions were down 12% from the previous year, from 52 to 46. In 2000 there were 85 executions. Hospira, the only U.S. company to make a drug used in lethal injections, announced last week that it has decided to halt production permanently. Hospira had planned to ramp up production at a plant in Italy, until the Italian Parliament wanted assurances that it would not be used in U.S. executions. Italy is a member of the European Union which has banned the death penalty. Five men now sit on Maryland's death row.

Marica Reinke

GUNS

Baltimore public officials will be filing legislation again this year seeking to raise minimum penalties for first-time gun offenders from 30 days to 18 months, and make the crime a felony, rather than a misdemeanor. The mayor and the chief of police would also raise the minimum sentence for convicted felons caught with a gun from the current three years to five years in prison. Similar bills failed last year with key legislators saying they oppose mandatory sentences. The Baltimore bills had not been filed at this writing.

Filed as **HB 9 (Smigiel)** again this year is proposed legislation entitled **Regulated Firearms – License Issued by Delaware, Pennsylvania, or Virginia – Reciprocity**. The bill, which received an unfavorable report in 2010 from the Judiciary Committee, would specify that a license to carry a regulated firearm, including a concealed regulated firearm, issued to an individual by Delaware, Pennsylvania, or Virginia would be valid in Maryland.

Marcia Reinke

SAME SEX MARRIAGE

To date, no legislation has been introduced regarding same sex marriage or related issues. However, it is anticipated that Senator Allan H. Kittleman (D 9) Howard County will introduce a civil union bill. He has resigned as Senate Minority Leader in order to avoid conflict with his party which does not support this issue. It was reported in the January 23, 2011 Baltimore Sun that Delegate Keiffer Mitchell (D 44) Baltimore City will co-sponsor a same sex marriage bill in the House this coming week.

Sherry Hyman

LAND USE/GROWTH MANAGEMENT

HB 8 (Smigiel) Eminent Domain – Condemnation Proceedings and Limitation on Condemnation Authority (Environmental Matters) Delegate Smigiel has again introduced a bill regarding eminent domain that he introduced in 2007 and again in 2010. HB 63 received an unfavorable report from Environmental Matters last year and was not heard in the Senate. The bill would propose an amendment to the Maryland Constitution to prohibit the condemnation of private property if the property is intended to be transferred to a private person. Last year's fiscal note stated that the bill imposed a mandate on a unit of local government and could affect the State's decision-making and planning regarding economic development or revitalization projects. (ENV)

Aranza Winkelman Kottmeyer

TRANSPORTATION

SB 12 - Maryland Quiet Vehicles and Pedestrian Safety Task Force – Reconstitution (Stone). This task force was established to examine the issue that bicyclists and pedestrians, but particularly, blind people, depend on sound cues produced by internal-combustion engines to travel safely and the increase in quieter hybrid, electric, and other low-emission vehicles presents a growing safety concern. Their final report noted that new research indicates that crashes involving quiet vehicles with pedestrians and bicyclists are more common than crashes involving internal-combustion engine vehicles and that the task force should continue their work as strategies and technologies to deal with the problem are just emerging. This bill would extend the Task Force to 2013. (hrg JPR 1/20)

SB 30 - Vehicle Laws – Use of Work Zone Speed Control Systems – Presence of Workers Required (Brochin, Jacobs, Stone, and Zirkin) would amend the bill passed in 2009 that authorized the use of speed

cameras by local jurisdictions in highway work zones or school zones. The law currently allows speed cameras to record images of vehicles that are traveling at speeds at least 12 miles per hour above the posted work zone speed limit regardless of whether workers are present. If enacted, citations could only be issued if at least one worker was present on the roadway, median or shoulder within or adjacent to the work zone. (no hearing yet)

Nancy Soreng

OPEN GOVERNMENT

HB 47 - State Government – Open Meetings Act – Online Training (O’Donnell) would require the State Open Meetings Law Compliance Board to develop and offer an online training program on the requirements of the open meetings law. If passed, within 6 months each public body would have to designate individuals to complete the training. They would be required to do so within 30 days of being designated and once a year following the initial course. (hearing HGO 2/1)

HB 48 - State Government – Open Meetings Act – Notice and Complaints (Morhaim, Kipke, Pena–Melnyk, and Tarrant) proposes two changes to the Open Meetings Act. First, it requires that any complaints about the conduct of a public body that one wishes to make to the Open Meetings Law Compliance Board be filed within one year of the action about which the complaint is being made took place. The second change would allow a public body to give notice of meetings on a web-site that the body regularly uses for communicating with the public and makes the requirement that meetings be announced in the Maryland Register and in writing to the media optional. The requirement to post meeting notices at a location accessible to the public and regularly used by the public body for posting notices would remain. (hearing HGO 2/1)

Nancy Soreng

CHILDREN’S SERVICES

In view of the enormous budget deficits, advocates have been waiting to see what the budget’s effect on children’s services will be. From a preliminary reading, some areas do not seem to have been cut. Child care subsidies in the Education budget seem to be funded at the same level as last year. Head Start does not seem to have suffered.

Despite this situation, there is concern that if the budget is balanced using only cuts in service, children’s services will suffer a disproportionate loss of funds. Some advocates are hoping for increased taxes to offset inevitable reduction in funds, while others think that asking for new sources of revenue is a mistake given the anti-tax sentiment in the country and the state of the economy.

The League does not have a position on bills that have been filed thus far in the area of children’s services.

Deborah Ehrenstein

JUVENILE JUSTICE

Juvenile Justice advocates have been worried, as has everyone, about the effect of possible budget reductions on services for youngsters who have been involved with law enforcement. A preliminary reading of the budget for the Department of Juvenile Justice suggests that their budget compared to last year has not been cut. Further analysis may reveal reductions that are not apparent at first. At present, no juvenile justice bills have been filed that the League should support.

Deborah Ehrenstein

