



# REPORT FROM STATE CIRCLE 2009

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Issue No. 1

January 28, 2009

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## **BUDGET AND REVENUES**

Governor O'Malley unveiled his proposed budget for FY 2010 as well as proposed adjustments to the adopted budget for FY 2009 this past Wednesday. There are no calls for new revenue sources, presumably because of the sad state of the economy and the large tax increases passed into law a little over a year ago. Instead, the budget proposals call for reductions in programs, increased federal aid and transfers from various funds into the general fund.

The general fund budget for FY 2010 is proposed to be \$14.46 billion down 1.3% from 2009. A reduction in the absolute dollars from one year to another doesn't happen very often and is an indicator of the hard times that even Maryland is experiencing. The budget assumes \$444 million in reductions that will require legislation - essentially level funding of community and private colleges; reducing K-12 education formulas; and a shift in property assessment costs to counties. The current guarantee that each county will receive at least a 1% increase in funding for K-12 would be eliminated and, according to the *Washington Post*, at least three counties will actually see reductions in state aid under the proposed change in the formula. What the proposed budget does not do is transfer responsibility for teachers pensions from the state to the county, a source of great concern to many county officials. Nor does it propose an increase in tuition at Maryland public colleges and universities.

The proposed budget assumes \$350 million in additional federal stimulus funds to support Medicaid and a 7.1% increase in Federal funds overall. A remaining gap of \$600 million is to come from the draw-down of balances in various funds. Net state positions will decrease by 1, 175 to a total of 80,081 and the planned expansion of Medicaid to adults without children, passed in last year's session, will be deferred.

There is an estimated shortfall in the current year budget of about \$400 million. The governor proposes \$208 million in more spending cuts in addition to those made by last year's legislature and the Board of Public Works during this past year and transfers of \$619 million from various funds, the largest being \$316 million from the local income tax refund reserve. This would result in a balance of \$424 million in reserves (assuming the projections are correct) available for FY 2010. Expenditures have already been reduced by \$1.75 billion between January 2007 to December 2008.

Although taxes were increased substantially during the Fall 2006 special session and the regular 2007 session in hopes of eliminating the "structural deficit," the fiscal problems of the past year have proved previous projections to be inaccurate. FY 2009 revenues, for example, are down 3.8% from estimates made as recently as July 2008. Projections for next year are even more dismal - Personal income tax down \$516 million, sales tax down \$231 million, corporate income tax down \$129 million. It will be at least a couple of years before revenues from video lottery machines help to fill the gap.

*Barbara Hankins*

## **DEATH PENALTY**

Repeal of the Death Penalty is a major 2009 priority of the Maryland League which is working with Maryland Citizens Against State Executions (MDCASE), a coalition which includes the ACLU, Amnesty International and dozens of other human and civil rights groups and religious denominations.

To date no legislation has been filed but Governor Martin O'Malley has promised to be a sponsor this year. In 2008 when repeal legislation failed again to get a favorable report from the Senate's Judicial Proceedings Committee, the General Assembly authorized the appointment of a Maryland Commission on Capital Punishment, which issued a report December 15 calling for abolition of the death penalty by a vote of 13 to 9. (A summary of the Commission's findings is included in the winter *Maryland Voter* and may be found online). Key to the repeal effort is getting a favorable vote from JPR which has the same members as last year.

*Marcia Reinke*

## ADMINISTRATION OF JUSTICE

The Judicial Compensation Commission, seven members appointed for 6-year terms, issued its recommendations to increase all Maryland judges' salaries by \$39,858 over a four year period. Joint Resolutions will be introduced in the General Assembly proposing the salary increase for all levels starting on July1, 2009 at \$9,111; beginning July1, 2010 an additional \$9,658; beginning July1, 2011 an additional \$10,237 and July1, 2012 an additional \$10,852.

The current salary for District Court Associate Judges is \$127,252 and if this proposal passes the salary level on July 1, 2012 would be \$167,110. The current salary for Associate Judges for Maryland's Court of Appeals is \$162,352 and would be \$202,210 on July1, 2012.

The General Assembly may amend the Joint Resolution to decrease but not increase the salary recommendations. Failure of both houses of the General Assembly to adopt or amend the joint resolution within 50 calendar days after its introduction results in adoption of the salary recommendation.

*Grace Kubofcik*

## GUNS

To date seven bills dealing with Guns have been filed, several of them cross-files. Two sets, both of which failed last year, are being filed again at the request of the Baltimore City Administration in an effort to cut down on the city's gun violence. Both deal with keeping those involved in gun crimes in jail. **HB 87 (Anderson)** and **SB (182) (McFadden) Criminal Procedure – No Good Time for Gun Crime** would cut back on eligibility for earlier release for good behavior. **HB 88 (Anderson)** and **SB 181 (McFadden) Criminal Procedure – Restrictions on Pretrial Release – Offenses Involving Firearms –Repeat Offender**, would make pretrial release more difficult.

Two bills, **SB 144 (Frosh plus 4) Family Law – Protective Orders – Surrender of Firearms** and **SB 210 (Lenett) Family Law – Final Protective Orders**, would require defendants in domestic protective order cases to give up their weapons. See the *Domestic* section of this *RSC*.

*Marcia Reinke*

## MANDATORY SENTENCING

Although nine bills dealing with sentencing have been filed, none deal with making the sentences mandatory. The League follows and opposes bills which require mandatory sentences in the belief that judicial discretion is preferable.

*Marcia Reinke*

### MARYLAND GENERAL ASSEMBLY HOME PAGE

For information on Maryland's State Government, Senate and House Committees, lists of legislators by names or districts, legislative hearings, bills introduced and much more - go to  
*Mlist.state.md.us*

## EDUCATION

Most important to K-12 public education during this legislative session is what funding the Governor has included in his budget and what changes the legislature makes to the budget. According to press reports, the Governor has included full state funding for teachers pensions rather than proposing that part or all of this responsibility should be shifted to local jurisdictions as the president of the Senate has suggested might be necessary. In addition, he has included some funding (about 30% of the maximum) for the Geographic Cost of Education Index (GCEI) for those counties where the cost of funding education is higher than average in the state.

Senator Muse has filed **SB 139 - Education - High School Assessment Requirement**, which would prohibit the State Board of Education from including in graduation requirements a mandate to pass curriculum-based examinations. The bill would not be effective until July 1, 2009 so it would not change the requirement for the class of 2009 to pass the High School Assessment exams.

**SB 140/HB 120 - Task Force to Study How to Improve Financial Literacy in the State - Membership, Staffing and Extension** (Muse & Klausmeier/Stein & Krebs) would add three members to the Task Force that was established last year and delay the deadline for the Task Force report one year to December 2009. The purpose of the Task Force is to study how well high school students and older consumers understand basic financial concepts, evaluate the current teaching of financial literacy in Maryland public schools, and make recommendations on the benefits and drawbacks of requiring that financial literacy be taught in our public schools.

Two bills have been introduced that would broaden school construction costs that must be covered by the state. Senator Rosapepe has introduced **SB 15 - School Construction - Pedestrian and Bicycle Trail Enhancements - Funding**, which would require the Board of Public Works (BPW) to include sidewalks, footpaths and bicycle trails that link residential neighborhoods to schools as an approved public school construction cost. Funding of these projects could not exceed 5% of annual public school construction costs. **SB 24 - Public Schools - State Aid for School Construction - Planning and Design Costs** (Peters) would require the BPW to include planning and design costs as an approved public school construction cost.

*Lois Stoner*

## TRANSPORTATION

The transportation news is all about money and the need to cut and defer projects. Until we figure out how to increase funding to the Transportation Trust Fund, that news will continue.

Two bills have been filed regarding the Transportation Trust Fund:

**HB139 Transportation Trust Fund – Dedicated to Highway Funds** (Krebs, et al) (W&M) requires that the gas tax, the titling tax and vehicle registration fees only be used for highway purposes. The League opposes this based on our position in support of an integrated transportation system.

**HB 140 Transportation Trust Fund Protection Act** (Krebs, et al) (APP) requires that transfers from the fund only be made due to extraordinary financial circumstances and that legislation be enacted prior to transfer that provides for repayment within five years.

There is the usual flurry of legislation on prohibiting the use of various communications devices while driving. The League has no position on this but individuals may feel strongly and want to weigh in: **SB 98/HB 72** prohibits text messaging, **SB 103** handheld telephones and **SB143** use of wireless communication devices. Another issue to return: **HB 27** eliminates funding of the Intercounty Connector.

*Carol Filipczak*

## ELECTIONS

Voters last November approved a Constitutional amendment authorizing the General Assembly to enact legislation to allow Early Voting and to allow no-excuse absentee voting. Senator Lenett has introduced **SB 197 - Election Law - Early Voting and Polling Places** which would allow voters to vote in his or her assigned precinct on Election Day, by provisional ballot at any polling place in the state on Election Day, or at an early voting polling place on any early voting day. The bill requires the State Election Board, in collaboration with local election boards to designate not more than ten days for early voting during the two-week period prior to Election Day. This legislation authorizes local election boards to designate the location and number of early voting polling places. Issues that will be raised during debate on this bill include whether early voting should be statewide or just county-wide, and the high cost of having every ballot style in the state available in each early voting location.

Delegate Reznick has announced his intention to introduce, but not yet introduced, legislation to put the issue of Election Day Voter Registration (EDR) in front of the voters as a Constitutional Amendment in November 2010. A joint briefing for Senate Education, Health and Environmental Affairs and House Ways and Means Committee will be held on January 28<sup>th</sup> about this issue and other election issues. Wisconsin election officials equivalent to our State Election Director and a local Election Director will testify at the hearing about how EDR works in their state.

Senator Stone has introduced **SB 97 - Election Law - Campaign Advertisements - Closed Captioning**, which would require all campaign ads on broadcast or cable television be accessible to the hearing impaired by closed captioning.

**SB 43 - Election Law - Qualification of Voters - Proof of Identity**, sponsored by Senators Harris, Greenip, Colburn, and Kittleman, is the latest legislation to require a voter to show identification to vote. This bill requires a voter to show a current and valid government issued photo identification at the polling place, and if the voter is not able to show this identification he or she must vote a provisional ballot. The League opposes additional voter identification requirements because they may disenfranchise eligible voters and evidence shows that such requirements adversely affect elderly, poor and minority voters disproportionately.

*Lu Pierson*

## AIR QUALITY

Governor O'Malley has announced he will join in sponsorship of the **Greenhouse Gas Reduction Act of 2009**. Similar to the Global Warming Solutions Act of 2008, it sets a mandated goal of reducing greenhouse gas emissions by 25% by 2020, from the 2006 baseline levels. Unlike the 2008 bill no goal is set for 2050. It incorporates many of the Senate committee amendments from last year to ensure no manufacturing job loss and a net economic benefit to the state. It requires a report to the Governor and General Assembly in 2015 assessing progress and the bill's impact on the state's economy, public health and the environment. As of today, no bill has been filed. In all probability the League will support this bill.

This is a dynamic time for air quality. The Obama administration promises a federal cap and trade program. Research on alternative energy systems is active throughout the country. The Maryland Climate Change Commission, last fall, issued its extensive final report outlining the situation in Maryland, what should be done to reduce greenhouse gas emissions and measures to be taken to reduce the impact of sea level rise.

*Carol Filipczak*

## HEALTH CARE

Access to health care will remain a concern through this legislative session and the coming year. The experience in Massachusetts indicates that you can increase the coverage, but that does not necessarily mean that residents will have access. Maryland is already experiencing a significant physician shortage in the rural areas of the State, especially in primary care and general surgery. This shortage is likely to be mirrored in other areas of the State in the next few years. The Governor's Task Force on Health Care Access and Reimbursement has issued its final report. It makes several suggestions for encouraging an increase in primary care and other specialties in areas with a shortage.

Small Business Subsidy, Health Care Expansion Funding and Medicaid will have to be watched carefully in the budget deliberations. Apparently there will be no general fund spending on health care expansion before 2011. Massachusetts is also having budgetary problems due to the large number of individuals who chose free or subsidized health care.

Medicaid will be under severe constraints with higher than expected enrollment growth. The budgeted growth is 0.6 percent, but they anticipate a growth of 2.0 percent. The Medicaid budget appears to be \$154.9 million less than the anticipated need. The State is worried about the growing number of unemployed and the effect it will have on Medicaid. How the General Assembly handles these increases will be interesting.

**SB 3** would prohibit an ambulance from coming to a medical office close to a hospital.

Changes in the Health Insurance Code will be needed to address the growing limitations on preexisting conditions and out of state Association contracts. The Insurance Commissioner has expressed concern about both of these issues. The carriers are applying stringent restriction on preexisting conditions particularly for individual policies. **HB 32 and HB 75** would address the preexisting conditions. **SB 79** although not cross-filed has both HB 32 and 39 in it. **HB 75/SB 135** addresses the use of preexisting conditions in the Maryland Health Insurance Plan, to which many patients losing their coverage go.

**HB 39** would put new restrictions on the increase in Association policies, especially when it is not a real Association. Small business would also get some help through HB 4 that would give employees from small businesses great access to the small market reform policies.

**SB 79** also addresses the carriers' shrinking loss ratios. The loss ratio is insurance speak for the amount of dollars spent on patient care. The major carriers in Maryland have been reducing their loss ratio and increasing their reserves in the last two years. Currently CareFirst has a loss ratio of 60 percent for individual policies. The battle over this bill will be fierce.

*Neilson Andrews*

## CAMPAIGN FINANCE REFORM

**SB 157, Campaign Finance—Affiliated Business Entities—Attribution of Contributions**—has been introduced by Senator Frosh, et al. Delegate Bobo will introduce a similar bill in the House. The bills would close a loophole in current law that enables some owners of Limited Liability Corporations (LLCs), partnerships and Real Estate Investment Trusts to circumvent contribution limits. It is common, for example for the same group of individuals to own several LLCs. That means that a developer who owns multiple LLCs can donate the maximum contribution ( \$10,000) through each LLC.

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**Campaing Finance Reform** continued from pg. 6

The House passed this bill in previous Sessions, but it died in EHEA. We will, once again, support this legislation. (Referred to EHEA; the House bill will probably go to W&M).

Public Funding of Campaigns for the General Assembly

We have, for many years, strongly supported creation of a voluntary system that would provide public funds to candidates for the General Assembly who voluntarily agree to abide by spending limits. The proposed system is similar to those successfully operating in Maine and Arizona.

The House passed public funding a few years ago but has not acted on it recently. The Senate committee (EHEA) failed to act for several years but finally reported the bill out to the full Senate where it died..

We expect a similar bill will be introduced this session. We don't, however, at this point know how issues, such as funding source and effective dates will be handled.

Other Possible Bills:

We may see two other bills introduced: one would prohibit individuals who do business with the state from making campaign contributions ("pay-to-play"); the second would forbid corporations from making any campaign contributions at all.

**LEGISLATIVE ETHICS**

No bills have been introduced to date.

*Kay Terry*

**BASIC HUMAN NEEDS**

As in every other area – we expect that successful legislation to improve meeting basic human needs will focus on improvements that can be made without a fiscal note (i.e. no additional cost to the State.) We expect that a big issue this session will be foreclosures – (in addition to the 3 bills passed last session on this issue). There were 50,000 plus foreclosures in Maryland in 2008. Nationally, 20% of the residential properties facing foreclosures are rentals and because rental properties often are home to multiple families, renters make up roughly 40% of the families facing eviction (National Low Housing Coalition).

**SB 203 Residential Property – Foreclosure – Notice to Occupants** (Jones and Muse) is the first bill to be introduced on this topic. This bill requires that the occupant of residential property as well as the owner of the property be notified before the filing of an action to foreclosure. This notification must be made at least 45 days before the foreclosure sale, must include phone number for Both Department of Housing and Community Development and the Attorney General's office where occupants can be referred to available resources, and warn about foreclosure prevention scams.

LWVUS includes support for equality of opportunity for housing in their equality of opportunity position, and this legislation would give renters (who tend to have lower incomes than homeowners) equal rights in dealing with foreclosures.

Legislation protecting tenants in foreclosures is being discussed requiring that tenants be notified when a foreclosure action is initiated, and given the exact eviction date. There is also talk of legislation requiring that every lender notify the Dept. of Labor, Licensing and Regulation (LLR) when a foreclosure process is started, with LLR maintaining a data base that can be used to track which lenders and brokers have highest foreclosure rates.

*Ruth Crystal*

## DOMESTIC VIOLENCE

Governor O'Malley announced in October that he is likely to sponsor legislation requiring the surrender of all firearms by anyone subject to a final protective order limiting contact with an abused spouse or person. Similar bills have been resisted by gun rights activist, but advocates for DV victims have expressed hope that the Governor's involvement could lead to passage in the 2009 legislative session. O'Malley signaled his intentions in a brief interview after he announced \$110 million in federal grants for DV programs and the expansion of a state council on preventing family violence.

The Governor said he is interested in resurrecting two bills that failed by lopsided votes in the House Judiciary Committee during the 2008 session. One would require judges to include the firearms prohibition when issuing a final protective order (PO). That restriction is now at the judge's discretion. The other would tighten the state PO law to include all firearms. Currently, handguns are subject to PO's, but rifles are not. Both bills are supported by the Maryland State Police, the Maryland Network Against DV, and the League last session, but not included in a package of "administration bills." We hope the Governor does include these measures in his package. Advocates are thrilled by this development.

Three bills are already in the works:

**HB 55 – DV – Temporary Protective Order Hearing – Substitution of Final PO Hearing.** (Barnes et al) (JUD) – would change the parties that may consent to waive a temporary PO hearing and move directly to the final PO. The bill also alters the judge's ability to proceed with a final PO if the court finds the final order would serve the interest of justice.

**HB 56 – DV – Conditions of Probation – Order to Carry or Wear a Global Positioning Device.** (Barnes et al) (JUD) – would authorize the court when placing on parole a defendant who has been convicted of a DV crime to order the defendant to carry or wear a global positioning device and to provide the victim with an electronic receptor capable of receiving information that notifies the victim of the defendant's proximity.

**HB 98 – DV – Temporary Protective Orders – Extension.** (Simmons et al) (JUD) – This measure would increase the time period from 30 days to six months for which a judge is authorized to place a PO. This measure is important. Currently victims are forced to return to court repeatedly to get new orders. Advocates believe a six month "breather" would enable the parties to calm down and work out some of their issues. HB 55 (above) would afford longer protection and less court time.

*Carol Sures*

## CHILDREN AND FAMILIES

As in all other areas, the main issue is budget cuts for children and family support groups.

Federal - National and State early childhood organizations are pleased that the Economic Recovery Package released by the House of Representatives includes \$2 billion for the Child Care and Development Block Grant (CCDBG) and \$2.1 billion for Head Start/Early Head Start. This would provide Maryland with close to \$30 million in each category - and would provide child care subsidies to thousands more Maryland children, and Head Start services to around 1500 children. Early childhood advocates emphasize that recovery for Child Care & Head Start/Early Head Start is a necessary component of national economic recovery. Both are needed to allow low income families to continue working and know that their children are safe and taken care of.

There is a state work group which produced "A Draft Business Plan for Pre-K for all" (on the MSDE/Early Childhood website). The plan contemplates a system developing over the next 10 or so years, ending up with universal non-mandatory access to publicly financed pre-K, either in public schools or in accredited child care programs. There is no current legislation drafted, but there is likely to be a bill in the current session to bring this about. These classes will be available to 4-year olds, and possibly 3yr old children. There is no program



**Children and Families** continued from pg. 9

planned for younger children, and this is cause for concern in the early childhood community.

One bill already introduced would ban the use of Bisphenol - a plastics in child care toys, while others may require providers to plan for predictable emergencies and to be aware of quality ratings and improvement plans.

Child care subsidies and health care have not shown up yet, but all are focused on passage of the SCHIP bill in Congress, which expands and delivers health care for all children of low income families.

*Patricia Plunkett*

## **ENVIRONMENT – WATER, WASTE TREATMENT AND LAND USE**

At this time, nine bills had been filed on environmental matters in the areas of water, waste treatment and land use. Environmentalists are optimistic that good progress will be made in the 2009 Legislative session in alleviating environmental problems.

Expected bills are on the subjects of strengthening growth management planning, better management of water resources, storm water and impervious surfaces, as well as disposal of wastes. The Maryland Department of Planning is likely to offer legislation that clarifies any ambiguity that may exist regarding the role that comprehensive plans play in State land use laws. A recent controversial land use decision by the Court of Appeals about Terrapin Run in Allegany County prompted such clarification. A highly anticipated bill by the environment community is a “standing” bill that will enable environmental groups and possibly homeowner associations to sue in court on actions detrimental to the environment.

**HB 34 Environment - Impervious Surface - Statewide Database** (Cardin). The bill requires the counties to report to the Department of Environment the amount of impervious surfaces in the county. These surfaces include roofs, parking lots, sidewalks. The bill would allow the Department to make regulations regarding impervious surface.

**HB 128 Environment - Disposal of Coal Combustion Byproducts - Zoning and Land Use Requirements** (Cecil County Delegation). This bill deals with the fly ash disposal problem. Fly ash and related products are solid residuals removed by air pollution control devices from the flue gas and combustion chambers of coal-burning furnaces and boilers. Coal combustion byproducts disposal facilities will require a permit from the Department of Environment and must fulfill certain requirements. Such facilities must conform to land use and zoning plans in the counties where they locate as well as the county solid waste plan. The law will not allow the Secretary to issue a permit for a coal combustion byproduct disposal facility in the critical areas.

**HB 135 Environment - Sewage Sludge Utilization - Zoning and Land Use Requirements** (Cecil County Delegation). This bill would prohibit the Secretary of Environment from issuing a permit for a sewage sludge utilization site unless it meets the county zoning and land use requirements or ordinances and would prohibit such sites on land adjacent to a municipality. EN --1/23 First Reading

*Susan Cochran*