



REPORT FROM STATE CIRCLE 2009

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voting equipment until 2016. **(HB 1211, SB 970)**

The problem arises because legislation passed in 2007 requires the state to purchase an optical scan voting system that meets the Voluntary Voting System Guidelines developed by the Election Assistance Commission, which include access to the voting system by disabled voters. But as of the present time, no optical scan voting system has been certified by the EAC to those Guidelines. A compromise drafted by Delegate Cardin would delete the reference from current law to the Voluntary Voting System Guidelines which would provide Maryland the opportunity to purchase a system that is not yet certified, AND allow the continued use of our current DRE machines for disabled voters. Advocates for the disabled community are split on the subject of whether to allow different voting machines for disabled voters. Additionally, the DRE machines are not fully auditable. The Governor put money into this year's budget for the acquisition (capital lease 2010-2015) of the optical scan voting system, and the procurement process is underway, which will be affected by the General Assembly's actions on these bills.

ELECTIONS

A great many election reform bills have been filed this year. Many have had hearings already and more are scheduled for hearing. None of the bills have passed out of their respective committees yet, but we expect action on some of them in the next week or two.

A number of bills have been filed and hearings held about issues relating to the acquisition of an optical scan voting system for Maryland. **(HB 863, SB 814, HB 738, HB 893, SB 415)** Two bills have been filed which would delay the purchase of new

The League provided testimony in support of **Early Voting (HB 1179 and SB 557)**. The Fiscal and Policy Note for these bills indicates that general fund expenditures may increase by \$1.7 million to \$3.8 million in FY 2010 to implement early voting. Additionally, local government expenditures will increase significantly for local election administration costs associated with early voting.

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The Fiscal Note suggests increases of up to \$1.1 million in jurisdictions with 5 early voting locations, \$0.5 in jurisdictions with three early voting centers and \$0.2 for jurisdictions with one early voting location.

A hearing is scheduled this week on **SB 733 – Permanent Absentee Ballot** list, which would allow voters who are a member of the armed forces or foreign service living outside the United States, a student enrolled in a higher education institution, elderly or disabled to apply to be placed on a list of voters who automatically receive an absentee ballot. The League has a position in support of a permanent absentee list of voters to whom absentee ballot APPLICATIONS are sent. Cross filed **HB 533** was heard on February 11th.

Lu Pierson

EDUCATION

As a result of concerns that too many students are not physically active, cross filed bills, **HB 1264/SB 879 - Gwendolyn Britt Student Health and Fitness Act** (Walker plus 46/Harrington), have been filed to require local school systems to develop and implement an annual physical fitness measurement program to help students develop personal physical fitness plans and improve their level of fitness as well as several other related goals. The required contents of each school system's program are specified, and the State Department of Education would be responsible for monitoring these programs. A 16 person Advisory Council would be required to develop programs with the public schools to be sure students understand the importance of physical activity and its relationship to a healthy life style. The Council

would also be directed to build a network of health and phys ed professionals to strengthen these activities. The House bill was heard on 3/ 4; the Senate bill hearing will be on 3/17.

Once again a bill has been submitted to direct the use of unanticipated lottery funds to local school systems. Senators Mooney and Colburn have filed **SB 977 - State Lottery - Unanticipated Revenues - Public School Systems**, which would require such funds to be distributed to each local school system according to the lottery sales made in each respective county.

SB 1032 - Funding Formula to Expand K-12 Online Education (Rosapepe) specifies that there is a Maryland Virtual Learning Opportunities Program responsible for the virtual learning opportunities already provided by the State Department of Education. The State Board of Education (SBE) would be charged with setting a fee for each on line course as a percentage of the target per pupil amount established by the Thornton school funding formula. Each local school board would have to reimburse the Maryland Virtual Learning Opportunities Fund for its enrollees in these online courses.

SB 140 (RSC 1) has passed the Senate with amendments adding two more members to the Financial Literacy Task Force; **SB 241** (RSC 2) regarding suspension procedures related to attendance has passed the Senate unamended; and **SB 139** (RSC 1) and **SB 903** (RSC 3), which would have prohibited the SBE from requiring high school seniors to pass the HSAs in order to graduate, both received unfavorable reports. **SB 990 - Education - Reporting Requirement - Class Size** (Stone) is a cross file of HB 379 (RSC 2).

Lois Stoner

MARRIAGE EQUALITY

Bills relating to domestic partners have been introduced: **SB 785 Inheritance Tax – Exemption – Domestic Partners**, sponsored by Senators Robey and Madaleno in the Budget and Taxation Committee is to be heard on March 16, 2009 at 2:00 p.m. It is crossfiled with **HB 1215** (Hixson et al) to be heard in the Ways and Means Committee on March 19, 2009 at 1:00 p.m. These bills provide an exemption from inheritance tax for property that passes from a decedent to or for the use of a domestic partner of a decedent. **HB 902 Maryland Family and Medical Leave Act** (Mizeur et al) was introduced in the House Economic Matters Committee on February 12, 2009. No hearing has been scheduled. This bill requires employers in Maryland that are subject to the federal Family and Medical Leave Act of 1993 to provide leave to an employee with respect to...the employee's domestic partner or the children of the domestic partner.

There will be hearings this week on **SB 565** (RSC 2) and crossfiled **HB 1055** (JPR 3/11 at 1 p.m.; JUD 3/12 at 1 p.m.)

The bills the League opposes, **SB 647 and HB 913 Maryland's Marriage Protection Act** will also be heard on the same days and times in the same committees as the above bills.

Sherry Hyman

CHILDREN AND FAMILIES

The Children's Cabinet Interagency Fund is provided through the Office of the Governor, Children's Cabinet, and has been cut by at least 15% overall. These cuts will directly affect valuable and proven services to children and families, such as: the Community Services Initiative, Rehab option, Early Intervention and Prevention. Local Management Boards, Coordinating Councils and Youth Services Bureaus which have taken a 20 to 30 per cent cut in the proposed budget. Advocates are requesting that the Governor restore most of these funds through a supplemental budget request.

Strategies developed by Local Management Boards (24-one in each county) have made it possible to maximize available resources within a jurisdiction, using outcome measures and fiscal incentives to encourage effective use of state funds. Montgomery County participated in a wraparound pilot wherein 14 children with clinically documented need for Residential Treatment Centers, were served instead in their home, school and community, using the wraparound model. For a 12 month time period, residential treatment on average would cost \$394 per day per month. Wraparound cost \$72.54 per day per month, saving the State \$3.8 million. Local Management Boards provide invaluable services and resources for families throughout the state, and must be funded adequately. Funds from the American Recovery and Reinvestment Act (ARRA) do not appear to be targeted for these uses.

Previous bills reported - Action

HB 184/SB 234 - Education - Maryland's Pre-School for All Business Plan. -Final Report Requirements Del. Hucker et al; Sen. King, et al. – W&M, Favorable Report with Amendments, 3/9/09. Senate, no action.

SB356/HB712 - Requires Child Care Providers to prepare plans for evacuation in the event of an emergency. EHEA, hrg, 2/11/09 - Passed - third reading w/amendments - 47-0.

HB 712, Health & Gov't. Operations - 1st rdg 2/9/09, no action.

Pat Plunkett

BUDGET AND REVENUE

Both the House and Senate committees dealing with the budget (**HB 100**) are finishing up hearings and will be dealing with amendments while waiting for the March revenue estimates. The estimates are forecast to be lower than earlier anticipated, possibly enough lower to offset a good portion of the funds to be received from the Federal stimulus package. The House is to report out its version of the budget on March 16 while the Senate committee will be dealing with amendments that week.

The Board of Public Works cut another \$82 million from the state budget for the current fiscal year, eliminating 892 vacant positions and reducing spending in several agencies. Altogether, close to 1200 vacant positions have been cut in response to declining state revenues.

The League of Women Voters of Maryland submitted a letter to members of the House Ways and Means committee in support of **HB 423** and **HB 426** both of which would allow indexing of the gasoline tax and **HB 1214** and **HB 746** which would raise the rate of the tax. Our message was that the Transportation Trust Fund is sadly depleted and we need some form of increase in the gasoline tax to start refilling its coffers. **SB 722** (Madeleno) would increase the gasoline tax by 5 cents. (B&T 3/16)

More details have emerged about **SB 603** and **HB 1244**. These bills would require combined reporting by corporations closing a loophole that has been long used by corporations with multiple entities. Ultimately, the corporate tax rate would be reduced to reflect 60% of the additional taxes collected under combined reporting. (B&T 3/11, W&M 3/5)

We plan to support **HB 1160** (Guitierrez, et al) **Alcoholic Beverage Tax – Increase and Distribution of Funds**. The state tax on all types of alcoholic beverages would be increased and the increased revenues would be used to support services in the Developmental Disability Administration and services to victims of domestic violence, sexual assault and sexual or physical child abuse. (W&M 3/19)

SB747 and **HB 684 Taxpayer Protection Act** – (B&T 3/18, W&M 3/5)

Barbara Hankins

ENVIRONMENT

HB 1305 - Coal Combustion Byproducts – Department Regulations – Transport and Beneficial Use (King) This bill would require the Department of the Environment to adopt regulations for the transport of products of coal combustion, such as fly ash and other solid residuals from the coal burning process. This would affect electric power generating companies in Maryland. Some of these residuals pose a problem for safe transport. The bill would also regulate the beneficial uses of the products, such as road paving additions. It is unclear to me how this would affect another problem, the disposal of fly ash that has potential for environmental harm. (hrg ENV March 13)

HB 1306 - Recycling - Restaurants and Bars - Aluminum, Glass, and Plastic Bottles (Carter et al) This bill would require the restaurants and bars to recycle aluminum, plastic bottles and glass. The Department of the Environment would facilitate coordination of recycling efforts between local jurisdictions and restaurants and bars. The bill would allow the MDE to make exceptions if a recycling facility could not be found to accept the items, or the action would cause an undue financial burden. The bill specifies fines for violations of \$100 for the first offense, \$250 for subsequent offenses up to a total of \$500. (hrg ENV March 13)

HB 1053 - Community Environmental Protection Act (McIntosh plus 21) is crossfiled with **SB 824** (RSC 3). LWVMD will testify in support. (hrg ENV 3/11)

Suzan Cochran

ADMINISTRATION OF JUSTICE

SB 307 changing the Judicial Compensation meeting date to September 1, 2009 passed the House 132-1 on 2/24 and was approved by the Governor on 2/26.

SB 528 (Kramer) **Estates and Trusts Register of Wills - Fees** (hrg 3/5 JPR)

HB 399 (Rosenberg) and **SB 153** (Frosh) - **Orphans 's Courts Jurisdictional Limit** increasing from \$20,000 to \$50,000. HB 399 as amended by JUD passed third reader 135-0 on 2/26. Amendment has specific language that legislation is prospective and has no effect on any probate proceedings commenced before the legislation's effective date of 10/1/09. HB 399 sent to Senate JPR on 2/27. SB 153 passed 3rd reader 46-0 with no amendment sent to House JUD 2/27.

SB 905 (Muse) and **HB 634** (Levi and Vallario) **Orphans' Court – Minors - Guardianship**. SB 905 hearing rescheduled for 3/24 JPR and HB 634 hrg 3/11 JUD.

HB 856 (Smigiel) **Criminal Procedure - Media Coverage in the Courtroom - Criminal Sentencing hearings** (hrg 3/5 cancelled rescheduled 3/11 JUD).

HB 917 (Smigiel) **Administration Office of the Courts - Uniform Subpoena Procedures and Forms for Circuit Court**. (hrg 3/5 JUD). Maryland Rules do not require that each circuit court adopt the same form and procedures for the issuance and service of subpoenas. Unlike the District Court of Maryland, which is a unified system run by the State, circuit courts are local courts administered by the county in which they are located.

HB 1102 (Norman) **Criminal Procedure Court Cost Payment for Foreign Language Interpreter**. Unfavorable JUD 3/9. Bill would have assessed costs for needed interpreter services on defendants found guilty. FY 2008 costs to Administrative Office of the Courts for interpreter services including deaf and hearing-impaired \$3.1 million.

SB 872 (Zirkin) **Election Law - Candidate for Judge of the Circuit Court - Filing Requirements**. Would require all candidates for Circuit Court to declare their intentions to run for Circuit Court at the same deadline time July 1, even if they were third party candidates not having a Gubernatorial Primary. (hrg2/26 cancelled rescheduled 3/12 EHEA)

Grace Kubofcik

CORRECTIONS

Bills which would make it easier for convicted felons, who have served their time and have been released, to get information on their voting rights are currently stalled. **HB 483** has been heard with no report, while the February hearing on the cross-filed **SB 503** was cancelled with no new date set. A similar bill **HB 1318** will be heard by JUD and W&M on March 24 at 1 p.m. *See RSC 2 and 3.*

Marcia Reinke

GUNS

HB 88, legislation which would make pre-trial release more difficult for repeat gun offenders, has passed in the House 135-0. The cross-filed bill, **SB 181** will be heard by Judicial Proceedings March 18 at 1 p.m. **HB 87** *cf* **SB 182 No Good Time for Gun Crime** (See *RSC 1 and 2*) has been heard by the House Judiciary committee with no report. The Senate bill will be heard by Judicial Proceedings March 18. These bills were filed at the request of the Baltimore City Administration and are aimed at cutting down on the city's gun violence.

HB 353, prohibiting guns and other deadly weapons on college campuses, has received an unfavorable report from the Judiciary Committee. **SB 551**, an identical bill with a different name, will be heard by Judicial Proceedings March 18.

Marcia Reinke

MANDATORY SENTENCING

A late-filed bill now in Senate Rules would establish a minimum penalty of two days in prison for a first DWI violation. **SB 1022 (Mooney and Muse) Driving While Under the Influence of Alcohol or Impaired by a Controlled Dangerous Substance – First Offense – Minimum Sentence** would allow confinement on a Saturday and Sunday and prohibit a court from imposing a penalty less than the minimum or suspending any part of the minimum. No hearing set.

HB 767 which would increase the mandatory sentence for a secondary sexual offense from five to 10 years has received an unfavorable report from JUD. The Senate hearing on the cross-filed **SB 427** is scheduled before JPR on March 17. *See RSC 3.*

Hearing dates are now set for **HB 1200/SB 919** which would require a mandatory minimum sentence of 18 months, no part suspended, for any person found carrying, wearing or transporting a firearm. *See RSC 3.* JUD will hear the bill March 17; and JPD March 25.

There is no report on **SB 424** which requires a mandatory minimum sentence of three years for conviction of vehicular homicide while permission to drive has been suspended or revoked. *See RSC 2.*

Marcia Reinke

DEATH PENALTY

Legislation which would repeal Maryland's death penalty emerged from three days of Senate debate with a new title which deletes the word "repeal" and substitutes the word "evidence" **SB 279 Criminal Law – Death Penalty – Evidence** restricts, but does not abolish, capital punishment, ruling out death sentences in murder cases where there is only eyewitness testimony, and allowing capital punishment only when there is DNA evidence. Passed to Third Reading by a vote of 34-13, the bill now goes to JUD for hearing March 17. The House bill **HB 316** at this point retains the word "repeal."

Full Senate action resulted from a procedural maneuver in which the bill was substituted on the floor for an unfavorable report from the Judicial Proceedings Committee (5-5) again this year. The motion to substitute, offered by Senator Gladden, passed 25-22. During the chaotic hours which followed, the bill was subjected to a series of amendments, all of which were rejected or withdrawn, except for those offered by Senators Brochin and Zirkin, both from Baltimore County.

The future of repeal is uncertain, although prospects appear dim. Previous headcounts have indicated that repeal legislation could pass in the House. But were the House to reject the amendments and vote for repeal, the bill would have to be returned to the Senate where it appears that death penalty proponents would prevail.

Most proponents of repeal regard the amendments as crippling and not compelling. Although they may narrow the number of death-eligible cases, they do nothing to address the points made in the Maryland Commission on Capital Punishment report dealing with jurisdictional and racial differences, the increased cost of capital cases, and lack of a deterrent effect.

All other bills filed relating to the death penalty are on hold awaiting hearings. *See RSC 1, 2 and 3.*

Marcia Reinke

JUVENILE JUSTICE

SB 393, cross-filed as **HB 383**, requires the child-serving Departments of the State to report to the Department of Budget and Management (DBM) how they are using evidenced-based practices which prevent the use of more expensive services. In the area of Juvenile Justice, this bill would require the Department of Juvenile Services (DJS) to report the use of intensive, in-home services to prevent the use of incarceration for juveniles. **SB 393** was heard in the Senate Budget and Taxation Committee. The bill was opposed by the Governor's Office for Children, which coordinates all the child-serving departments in the executive branch. In testimony relating to DJS, the reporting requirements were said to be unnecessary because the Department is already doing many of the things advocated by this bill.

Hearings were held on **SB 218**, which requires those convicted of a juvenile sex offense to register after Juvenile Court jurisdiction ceases, was heard by the Judiciary Committee. The bill was strongly supported by Sen. Frosh, the lead sponsor, but opposed by almost all the witnesses on the basis that the need to register as sex offenders might inhibit reporting of intra-familial sex offenses, prevent juvenile sex offenders from taking advantage of treatment, and would do little to prevent the offenses at which it was aimed. Members of the Committee asked many questions of witnesses who opposed the bill, suggesting strong support in the Committee. Hearings in the House committee on the cross-file **HB 593** will be held on March 10 by the House Judiciary Committee.

Hearings on **SB 531** requiring that Juvenile Services ensure that specified facilities for incarceration of juveniles serve no more than 48 children will be held on March 10 in JPR.

Debbie Ehrenstein

MEETING BASIC HUMAN NEEDS/AFFORDABLE HOUSING

No additional legislation has been introduced. The following bills on affordable housing, reported on in RSC3, have been heard but not voted on:

SB842	heard 2/25
SB829	heard 2/25
SB694	heard 3/5
HB776	heard 3/5
HB773	heard 2/26
HB692	heard 2/26

HB 621 repealing the living wage requirement for state contracts was given an unfavorable vote by Economic Matters.

Ruth Crystal

AIR QUALITY

SB 278 Greenhouse Gas Emissions Reduction Act of 2009 (RSC1) passed the Senate with a vote of 36 – 9. Its companion **HB 315** is awaiting action in the ENV committee.

SB 212 Environment – Green Building Council (RSC3) passed the Senate with a vote of 46 – 0. **HB 154** has added the APP to HGO for hearing, but none has been scheduled.

TRANSPORTATION

The federal stimulus package includes capital expenditures for transportation, about 70% for highways, 30% for public transportation. These funds must be spent within time limits. MTA will use the funds to purchase new hybrid buses and on improvements to MARC stations.

Carol Filipczak

HEALTH

HB 951/SB 813, Health Care Affordability Act of 2009, Consumer Health Open Insurance Coverage Act of 2009 and **SB 881/HB 1186, Maryland Health System Act of 2009**, all remain in committee. Additionally, the hearings on the first two were postponed, leading to questions about their future. It may be they are going to be sent to summer study or that the committees are waiting a year to see what happens at the federal level.

It appears that the “Medical Loss Ratio” bills (**SB 79/HB 272**) will not be successful this year in spite of the advocacy of the Maryland Insurance Administration (MIA). The proposals would have increased dramatically the amount of each premium dollar that would be spent on health care (from 75% to 85%). At 75%, Maryland’s Small Group policies are already leading the country in required loss ratios and these bills would have stepped it up significantly. However, individual policies have a much lower loss ratio around 60 percent. (Loss ratio is the amount spent on actual health care by carriers and HMOs.)

The Health subcommittee of HGO has approved **HB 255 (Health Maintenance Organizations – Payments to Nonparticipating Providers)**, which likely means that it will come out of committee. This is crossfiled, with Senate Bill 380 that has already passed the Senate. This legislation is a proposal from the Governor’s Task Force on Health Care Access and Reimbursement and seeks to increase the statutory formula for the payment of non-par physicians (generally hospital based) who see HMO patients.

The Senate Finance Committee heard **SB 661 (Health Insurance – Use of Physician Rating Systems by Carriers)**, another of the Governor’s Task Force bills. This would make Maryland law consistent with the Consent Decree negotiated by the Attorney General Cumo of New York that will insure that doctors are “rated” on both quality and cost, rather than just cost. Physicians will also be able to appeal any rating to an independent ratings examiner.

HB 237 (Health Care Malpractice – Non-economic Damages) was heard February and is still in committee. The crossfiled SB 505 is also in committee. These would “undo” the cap on non-economic damages in a wrongful death case which was enacted by the Special Session on Medical Malpractice in December 2004/January 2005. At the present time, the total “cap” in wrongful death cases is \$831,250. Passage of HB 237 more than doubles that cap as of October 1st and hence, immediately adds \$1 million in additional damages to most cases of medical malpractice involving wrongful death. These bills are strongly opposed by the entire medical community, physicians, hospitals, nursing homes, etc.

Most of the Medicaid bills are in committee probably waiting for budgetary discussion to be over. There is another month to go before the budget is finalized, so many of these bills will wait for funding.

Neilson Andrews