



# REPORT FROM STATE CIRCLE 2009

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## BUDGET AND REVENUE

The General Assembly passed three measures in its fiscal package for FY2009 and FY 2010 – **HB 100** the Budget Bill which appropriates \$32.3 billion; **HB101** the Budget Reconciliation and Financing Act (BRFA) which transfers balances from special funds to the General Fund and reduces some mandated appropriations in order to balance the current year and next year’s budgets; and **HB102** Maryland Consolidated Capital Bond Loan of 2009 authorizing \$1.1 billion in bonds for capital projects.

The Budget Bill increases public school funding by 2.5% fully funding Thornton and the Geographic Cost to Education Index. Local school systems will also receive \$193 million in federal stimulus funds. Higher Education funding totals \$1.2 billion in general funds allowing the in-state tuition freeze to continue for the fourth straight year. Medical Assistance increased by \$200 million to \$5.8 billion including \$652 in federal stimulus matching funds. There are no cost of living adjustments or merit increases and no deferred compensation match in the budget bill for state employees. Funding of \$63 million in General funds for the Inter County Connector were eliminated but, instead, the ICC was granted general obligation bond authorization.

BRFA transfers \$1 billion (\$785.4 million for fiscal 2009 and \$216.3 million for fiscal 2010) from special funds to the General Fund and reduces mandated appropriations for fiscal 2009 by \$561 million. Major transfers for fiscal 2009 include \$366.8 million from the Local Income Tax Reserve Fund for Refunds; \$52.7 million from the Helicopter Replacement Fund (instead \$52.5

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## Enrolled Bill

If a bill is amended in the seconded house, the amendments must be concurred in by the originating house; if the amendments are rejected, the second house must withdraw the amendments or a conference committee must resolve the differences. A final vote is taken in both houses on the amended bill which is then reprinted and considered to be enrolled.

**Budget** continued from page 1

million is authorized in the capital budget) and a total of \$141.3 million from two Program Open Space programs. For fiscal 2010, major transfers include \$161.9 million from Local Highway User Revenues and \$31 million from Program Open Space and Agricultural Land Preservation.

**HB 102** authorizes \$1.1 billion in bonds for capital projects including \$261.4 million for Public School Construction; \$181.1 million for State Universities and Colleges; and \$87.5 million for Community Colleges. Program Open Space will receive bonding authority for a total of \$77.5 million; the Rural Legacy Program 11.8 million; and Agriculture Land Preservation \$13 million.

None of the bills we have been following during the session were voted out of committee - i.e. there will be no increases in the alcoholic beverage tax or the gasoline tax and no combined reporting for corporations. On the other hand, teachers' pension costs were not transferred to the counties nor will there be required a three fifths vote of the General Assembly to pass legislation increasing an existing tax or to impose a new tax.

*Barbara Hankins*

## **EDUCATION**

Most significant for public K-12 education during the 2009 legislative session were the budgetary decisions. Thanks to federal stimulus money, funding mandated by the 2002 Thornton legislation was fully implemented, including the Geographic Cost of Education Index. In addition to the few bills listed below that passed, two technical bills, not previously noted in RSC also passed. **HB 587 - Teacher Identification Number** will create a unique identification number for each Maryland teacher, and **HB 588 - Standardized Course Numbering System** will create a standardized statewide course numbering system which local school systems may choose to use.

### RSC 1

SB 15 - School Construction - Trail Enhancement - Unfavorable Report

SB 24 - School Construction - Planning and Design - No action

SB 139 - HSA Requirement - Unfavorable Report

SB 140 - Task Force on Financial Literacy - Passed with Senate amendments adding two more officials and three more public members

HB 120 - Task Force on Financial Literacy - Passed Enrolled to match SB 140

### RSC 2

SB 241 - Prohibits Principals from suspending students solely for Attendance Reasons - Passed Enrolled with exception for in-school suspension

SB 340 - GED Options - No Action

SB 409 - Policy for Office Discipline Referrals - Passed Senate only converted to a local Anne Arundel County bill

HB 150 - Administrators Required to Report Violence to Local Law Enforcement - No action

HB 183 - Lottery for Schools - No action

HB 257 - Classroom Placement for Twins, etc. - No action

HB 339 - Education Funding with Slots Revenue - Unfavorable Report

HB 342 - Education Funding with Slots Revenue - Unfavorable Report

HB 365 - Adult Literacy Grant - No action

HB 379 - Class Size Reporting - Passed - Requires MSDE to develop a uniform data collection system to track how many students are in each public school classroom in Maryland

HB 481 - School Construction - Trail Enhancement - Unfavorable Report

HB 505 - Ban on High School Assessment Requirement - No action

### RSC 3

- SB 648 - Local Employer Contribution for Teacher Retirement and Pension Systems - No action  
SB 689 - High School Options - Passed Enrolled - Eliminates the proposed Study Group and requires MSDE to identify exams that, if passed, would allow credit for high school English 12 and Algebra II. Bill would be effective for only three years.  
SB 699 - Immunization for those entering 7th grade or higher - Unfavorable Report  
SB 710 - Local Employer Contribution for Teacher Retirement and Pension Systems - No action  
SB 715 - BOAST Tax Credit - No action  
SB 754 - No Standing on School Busses - Unfavorable Report  
SB 857 - High School Reform - Unfavorable Report  
SB 903 - HSA Requirement - Unfavorable Report  
HB 660 - Prohibits principals from suspending students only for Attendance Reasons - Passed (see SB 241 above)  
HB 845 - Tween Dating Violence Awareness - Passed House only amended  
HB 897 - Policy for Office Discipline Referrals - No action  
HB 934 - No Standing on School Busses - Unfavorable Report  
HB 1032 - Mandate Criminal law course - No action  
HB 1046 - Local Employer Contribution for Teacher Retirement and Pension Systems-Unfavorable Report  
HB 1223 - High School Reform - Passed House only amended  
HB 1259 - BOAST Tax Credit - No action

### RSC 4

- SB 879 - Student Fitness - Passed as amended (see RSC#5)  
HB 1264 - Student Fitness - Passed as amended (see RSC#5)

### RSC 5

- HB 1549 - Evaluation of Thornton Formulas - No action

*Lois Stoner*

## **AFFORDABLE HOUSING**

As noted in an earlier *Report from State Circle*, there were 50,000 plus foreclosures in Maryland in 2008. Nationally, 20% of the residential properties facing foreclosure are rentals and because rental properties often are home to multiple families, renters make up roughly 40% of the families facing eviction (National Low Income Housing coalition). Protecting renters living in foreclosed properties was a focus of affordable housing advocates.

**SB 842/HB 776 Real Property - Foreclosure of Mortgages and Deeds of Trust on Residential Property-Notice to Occupants** (Senator Lenett/ Delegate Healey et al) was successfully passed and is awaiting the Governor's signature. This legislation will help tenants whose buildings have been foreclosed upon by requiring written notice to all tenants both in preparation for the foreclosure sale, in the direct lead-up to the sale, and after the judgment awarding possession to a new owner.

No other bills of significance on affordable housing were passed during the 2009 session.

*Ruth Cramer Crystal*

## DEATH PENALTY

The end result of volatile death penalty debate in both chambers is legislation which will make capital prosecutions more difficult but which falls short of repeal. After three days of procedural votes to get around an unfavorable committee report, plus floor amendments and argument, the Senate voted 34 – 13, to approve a version re-titled **Criminal Law – Death Penalty – Evidence**. And, although there appeared to be enough votes in the House for full repeal, the Judiciary committee sent only the Senate version to the House floor in the apparent belief that the **Evidence** bill was the best that could be expected this year. The bill, which Gov. Martin O’Malley has promised to sign, restricts the death penalty to murder cases with biological evidence such as DNA, videotaped evidence of the murder or a videotaped confession.

Ending capital punishment was an LWVMD high priority this year and we submitted testimony in both chambers showing strong support for repeal. At the 11<sup>th</sup> hour, however, LWVMD supported the Evidence bill, as better than nothing at all.

Other death penalty bills went nowhere. Happily for those who oppose capital punishment, legislation to exempt lethal injection procedures from the Administrative Procedures Act received an unfavorable report from the Judiciary Committee. Maryland executions have been on hold following a Court of Appeals decision a few years ago to the effect that injection protocols must be reviewed and approved before another execution takes place. O’Malley, an advocate of repeal, reluctantly has initiated this review which may, however, be difficult to get through a future General Assembly.

Receiving unfavorable reports or dying in committee were bills which would have created a special death penalty court and which linked the death penalty to pro-life positions.

*Marcia Reinke*

## GUNS

Legislation which will make pre-trial release much more difficult for repeat gun offenders passed unanimously in both the House and Senate this year. The bill was the only one of several filed at the request of the Baltimore City Administration in an effort to cut down on gun-related crime, with the others either dying in committee or receiving unfavorable reports.

Passed, however, were bills favored by LWVMD which will take guns away from defendants in protective orders cases. See the Domestic Violence section of this *RSC*.

*Marcia Reinke*

## CORRECTIONS

The only Corrections legislation being followed by *RSC* this year died in committee. The bills would have made it easier for convicted felons to get information about their voting rights when released from prison.

*Marcia Reinke*

## MANDATORY SENTENCING

All the bills which would have established or increased mandatory minimum sentences either died in committee or received unfavorable reports this year. LWVMD opposes mandatory sentencing in favor of judicial discretion.

*Marcia Reinke*

## ADMINISTRATION OF JUSTICE

The 2009 Maryland General Assembly selected very few issues to take action on in the area of Courts and the League's Administration of Justice position. The issue of increased salaries for judges and other court positions was postponed till the 2010 session.

**HB 399** (Rosenberg) is enrolled. The Senate added amendments and passed the legislation on 4/2, 47-0. On 4/3 the House concurred with the Senate Amendments and passed the bill 137-0. The Title of the bill was amended to Estates & Trusts-Jurisdictions of Orphan's Courts Determination of Title to Personal Property. Another amendment added the language for the purpose of altering the maximum value of personal property for which an Orphan's Court is authorized to determine questions of title. The new value is \$50,000. The current amount was \$20,000. **SB 153** (Frosh)- Orphan's Courts Jurisdictional Limit increasing the value of personal property from \$20,000 to \$50,000. House JUD hearing 4/1, JUD favorable, passed third reader 137-0.

**SB 905** (Muse) Orphans' Court-Minors - Guardianship of Person. JPR hearing 3/25 and favorable JPR 4/6. Passed Senate 47-0. House JUD hearing 4/13 favorable. House passed 134-4. Note the specific language of the bill requires that the Orphans' Court may exercise jurisdiction over guardianship if the presiding judge of the Orphans' Court is a member of the bar. The Orphans' Court may transfer the matter to the Circuit Court on a finding that the best interests of the child require utilization of the equitable powers of the Circuit Court. **HB 634**(Levi & Vallario) was the cross filed bill. 3/16 JUD favorable. 3/19 passed 3<sup>rd</sup> reader 132-0. Senate JPR 3/20 favorable 4/6 passed Senate 47-0,4/7.

**HB 856** (Smigiel) Criminal Procedure - Media Coverage in the Courtroom-Criminal Sentencing hearings. Died in JUD committee.

**HB 917** (Smigiel) Administration Office of the Courts - Uniform Subpoena Procedures and Forms for Circuit Court. Died in JUD committee.

**SB 872** (Zirkin) Election Law - Candidate for Judge of the Circuit Court - Filing Requirements. Died in EHEA committee.

*Grace Kubofcik*

## JUVENILE JUSTICE

The session that ended in April did not result in much progress for juvenile justice. Three bills have been followed during the current session of the legislature. **HB 383** - managing for results - was never voted out of the House Appropriations Committee nor did the cross-file, **SB 393**, leave the Senate Budget and Taxation Committee.

**SB 218** cross-filed as **HB 593**, was passed by both houses of the Legislature. This legislation provides for the development of a sex offenders registry for juveniles after release from Juvenile Court supervision. It is unclear whether this legislation helps or hurts public safety and the ability of those juveniles involved in sex abuse to recover from this disorder.

**HB 531**, which put a limit of 48 residents who can be served in certain specified juvenile institutions and mandated that juveniles in detention be kept separate from those who had already been committed by the court, passed the Senate but died in the House, although it was reported favorably by the House Judiciary Committee.

*Debbie Ehrenstein*

## CAMPAIGN FINANCE REFORM

Perhaps the most interesting occurrence in the 2009 Session was the unexpected attention paid to the Fair Campaign Financing Fund established more than 30 years ago under the Fair Campaign Financing Act. That Fund is available to candidates for Governor and Lieutenant Governor who opt to use public funding for their campaigns and agree to abide by spending limits. The Fund has not been used since 1994, when Ellen Sauerbrey first ran for Governor.

**HB 1353 and SB 663** (neither passed this Session) would have abolished that Fund and used its assets (about \$5 million in 2008) to finance public funding for General Assembly candidates.. Senator Harris, who had voted for public funding last Session, objected in EHEA to what he called “raiding” the gubernatorial Fund. He was concerned that there would be no money left in the Fund for a gubernatorial candidate in 2010. Senator Pinsky, the bill’s sponsor, amended the bill to provide that the Fund could not be tapped until 2011. Senator Harris still voted to recommit the bill to EHEA, effectively killing it.

Senator Pipkin then introduced an “emergency” bill (**SB 1072**) to require that the General Assembly declare that the Fair Campaign Financing Act is “operable and viable”, apparently to counter arguments that it is neither. The bill did not receive a hearing in EHEA.

Over in the House, Delegates amended the early voting bill (**HB 1179**), to take \$2.5 million from the Fund to implement early voting. However, that section was eliminated from the Early Voting bill just before final passage (see *Elections* on page 8)

### Other bills:

Only one campaign financing bill passed this year. **SB 1395**, submitted on behalf of the State Board of Elections, passed both the General Assembly House unanimously. A campaign finance entity that opts to file an affidavit of limited contributions and expenditures rather than a campaign finance report will now be subject to sanctions if it does not file a timely affidavit. **SB 849**, which would have set up a task force to study restrictions on campaign contributions from government contractors, was given an unfavorable report by EHEA.

The status of all other campaign finance bills reported in RSC 5 was unchanged at the end of the Session.

## LEGISLATIVE ETHICS

**HB 475 and SB 695** would have provided that a former state official could not act as a paid lobbyist on legislation before the General Assembly. HB 475 passed by a vote of 13-2. It was referred to the Senate Rules Committee and did not emerge. SB 695 was heard by EHEA but no vote was taken.

*Kay Terry*

## MARRIAGE EQUALITY

The **Religious Freedom and Civil Marriage Protection Act SB 565/HB 1055** failed for the second year. **SB 647/HB 913**, the constitutional amendment bill which would ban same sex marriage also failed.

The **Inheritance Tax Exemption** bills **SB 785/HB 1215** (RSC 4) passed and are expected to be presented to the Governor for signature.

Governor O’Malley’s proposal to extend healthcare and other benefits to state employees’ domestic partners and dependent children was approved by the General Assembly.

*Sherry Hyman*

## DOMESTIC VIOLENCE

This was a banner year for Domestic Violence advocates. Long-sought legislation to allow judges to order a respondent under a Protective Order (PO) to surrender firearms was passed handily. Removal of guns is now mandatory for final PO's (**HB 296/SB 267**), and judges are enabled to order removal under temporary orders.

Another bill that has been submitted many times (**HB 98/SB 601** - Del. Simmons, Senator Zirkin) – Temporary Protective Order – Extension) increases the period of time from 30 days to 6 months for a judge to extend a temporary PO which will put an end to the constant necessity for victims to return to court for such an order.

Advocates are relieved at the failure of **HB 1181/SB 461** which would have allowed the expungement of records of protective orders when an order is denied or dismissed. However, the House bill failed on the 3<sup>rd</sup> Reader but was recommitted to JUD where it languished; the Senate bill died in JPR. It is a perennial issue and is likely to return.

*Carol Sures*

## AIR QUALITY

**SB278/HB315 Greenhouse Gas Emissions Reduction Act of 2009** passed, but eluded the newspaper wrap-up reports. It is significant legislation, which mandates 25% reduction in greenhouse gases by 2020 from the 2006 baseline levels.

**HB1171 Alternative Energy Tax Incentive Act of 2009** passed unanimously in both houses. It provides exemption from certain state taxes for wind energy equipment for residential use.

Three bill increase attention to green building standards in the state: **SB212/HB154 Environment – Green Building Council** passed. It expands the duties of the Council to include recommendations on expanding green buildings in the state.

**SB625 Maryland Building Performance Standard – Energy Conservation and Efficiency** passed. It increases building code requirements for better energy efficiency.

**SB686/HB541 High Performance Building Act – Community Colleges** passed. It adds community colleges to the state mandate for high performance building standards. However a waiver provision was added.

## TRANSPORTATION

None of the bills to increase the motor fuel tax received any action from committees. HB423, HB747. HB1214, HB746, SB722.

Several bills, on which the League has no position, passed: **SB265/HB303 Vehicle Laws – Teen Driver Safety** increases the age for obtaining driver's licenses.

**SB98/HB72 – The Delegate John Arnick Electronic Communication Traffic Safety Act** prohibits texting while a car is in motion. Exceptions are for making 911 calls and using GPS devices.

**SB277 Vehicle Laws – Speed Monitoring Systems - ...** authorizes the use of speed cameras by local jurisdictions in highway work zones or school zones. Speeds 12 mph over the posted limits may receive warnings or citations.

*Carol Filipczak*

## ELECTIONS

While there were quite a few election-related bills filed during this session, only two substantive bills passed. **HB 1179 – Election Law – Early Voting** puts into effect a system of early voting in response to voters' approval of a Constitutional Amendment in 2008 allowing early voting. This legislation allows a registered voter to vote at the voter's assigned precinct on Election Day or at an early voting center within the voter's county of residence. Each county will have at least one early voting location. Counties with 150,000 to 300,000 registered voters will have three early voting centers, and counties with over 300,000 registered voters will have five early voting locations. These locations must be identified at least six months prior to a Primary Election. For the 2010 primary and general elections, the early voting dates will be the second Friday before an election through the Thursday before an election, excluding Sunday. In 2012, Sunday voting hours get added to the schedule. At one point during the negotiations related to HB 1179, the bill allowed the State Board of Elections to use up to \$2.5 million dollars from the Fair Campaign Financing Fund to pay for costs associated with implementing early voting. That section was deleted from the bill before final passage.

Although it was not until the final day of the session, the General Assembly finally passed a bill defining what voting system will be used in Maryland for future elections. **HB 893 – Election Law – Voting Systems – Requirements** went through a number of hearings and was amended several times, but in the end it retains the requirement for an optical scan voting system. In 2007, the General Assembly had passed legislation effectively requiring an optical scan voting system, but also required that any system acquired by Maryland must have been shown to meet performance measures established by the FEC or the US Election Assistance Commission AND that any accessible voting system conform to the requirement of the Voluntary Voting System Guidelines developed in accordance with the Help America Vote Act. No such voting system has yet been certified to the Voluntary Voting System Guidelines. HB 893 as enrolled requires that each polling place have at least one voting machine that is accessible to voters with disabilities, but that these accessible machines are NOT required to provide a voter-verifiable paper record. As a result, it appears likely that the state will procure optical scan voting machines for use by most voters, but they will retain some of the DRE machines currently used in Maryland for use by voters with disabilities. This legislation requires the state to deploy voting machines that are accessible and provide a voter-verifiable paper record within two years after such a system has been shown to meet the Voluntary Voting System Guidelines.

A bill that LWVMD supported which would have required an audit of election results did not pass, nor did a bill which would have allowed voters to register and vote on Election Day. **SB 595-Election Law – Audit of Election Results – Transparency in Election Administration** and **SB 514/HB 476 - Elective Franchise - Registration and Voting on Election Day** were uniformly opposed by local election officials as expensive and because the implementation of a new voting system and early voting will tax the substantial capabilities of local election boards without the addition of new audit requirements and new election day registration procedures. None of the various bills which would have required additional identification at the polls were successful. Also unsuccessful were bills which would have required special election to fill a vacant seat for the U.S. Senate, bills requiring runoff elections and a bill which would have repealed the previous General Assembly's approval of the Agreement among the States to Election the President by National Popular Vote.

*Lu Pierson*

## CHILDREN AND FAMILIES

**HB690/SB713** - passed – (Adrienne Jones et al) **Children in out-of-home placement - expands systems for outcome evaluations**, encourages keeping children in their own home or community.

The State Child Care Resource and Referral Network (CCRR) was cut in the current fiscal year (by \$500,000) and again in January by an additional 55%. However, after release of this year's Kindergarten Readiness Report, Secretary Grasmick said that this funding would be restored. The Governor then added \$4.2 million through ARRA (American Recovery and Reinvestment Act) to restore R&R to its October level.

After mistakenly cutting the Head Start funding (believing federal funds could be substituted), the final budget provides \$1.8 million in State funding. Funds for child care mental health consultations and Infants and Toddlers special needs identification and treatment did not fare as well, although final figures are not yet available.

### **Status of Bills previously reported:**

HB184/SB234 - passed - Maryland's Pre-K for All Business Plan- MSDE will be instructed to prepare a plan for implementing public pre-K for all, to be ready when funds are available. (RSC 4)

HB356/HB712 - passed - Regulated Child Care providers must develop and implement emergency preparedness and evacuation plans for their facility. (RSC 4)

SB414/HB685 - Failed - re a Quality Ratings and Improvement System (QRIS) for Maryland. (RSC 2)

## CHILDREN'S CABINET INTER-AGENCY FUND

Cuts to this fund were not restored, leaving about a 20% reduction overall. The top priority, Rehab Option and Community Services Initiative (CSI) is slated for a 30% reduction statewide, with FY09 funds currently frozen. Children with severe emotional or developmental disabilities, who are at risk of custody relinquishment, have been diverted from costly in-state or out-of state residential placements and received wraparound support services at a cost avoidance of up to \$80,000 per child. The Rehab option is slated for nearly \$2 million reduction and CSI for \$1.7 million, plus cuts by the Board of Public Works, and possibly more. These cuts will result in many more children being hospitalized or put into residential treatment at increased cost to the State and the children's well-being. Cuts are also being recommended to the Early Intervention and Prevention program, and to the Local Management Boards, which provide the leadership and staff to support these programs in every jurisdiction in the State.

*Pat Plunkett*

## HEALTH

The General Assembly enacted significant reforms for the Maryland Small Group Market insurance products, because the number of people insured in the small group market has been dropping. All of the bills were designed to increase flexibility in the Small Group Market to attract small employers back to the market or attach new businesses. The rationale for most changes was that there had to be lower premiums to attract these groups.

**SB 637/HB 674** (*Small Group Market Regulation - Modifications*) actually allows the insurance carriers greater limits on pre-existing conditions, especially when a small group employer is entering the market for the first time and had not offered a health benefit plan to its employees in the preceding 12 months. There are also changes in the “rate bands” which occur because of age or geography in the small group market. The rate bands were increased to plus or minus 50% with plus or minus 55% in 2013. There will also be “health status” adjustments of 10% in the first year of enrollment, 5% in the second year and 2% in the third year with the “community rate” applying thereafter (subject to the new rate bans of plus or minus 50% for age and geography).

The Maryland Health Care Commission (MHCC) was directed to maintain on its website comparison of premiums for those carriers issuing health benefit plans to small employers. Also, **SB 638/HB 610** (*Health Insurance - Bona Fide Wellness Programs - Incentives*) provided for increased wellness program incentives for up to 20% of the cost of coverage.

The increase in the carriers' Medical Loss Ratio did not pass this session, but the effect of such an increase will be studied in the interim. Senate Bill 852 / House Bill 1647 (*Health Insurance - Assignment of Benefits - Notice and Report*) did not pass and will also be studied this summer.

**SB 627/HB 714** (*Loan Assistance Repayment and Practice Assistance for Physicians*) provides a state specific loan assistance program for physicians who will practice in a state defined shortage area. The legislation is particularly directed toward primary care, including family medicine, internal medicine, obstetrics, pediatrics, geriatrics, emergency medicine and psychiatry. However, Health Secretary John Colmers must persuade the Center for Medicare/Medicaid Service officials that an assessment on hospital rates for these purposes is acceptable in light of the rules regarding Maryland's unique Medicare waiver and hospital rate setting system.

The cost of electronic health/medical records was addressed by **SB 744/HB 706** (*Electronic Health Records - Regulation and Reimbursement*) mandates that the Maryland Health Care Commission develop regulations directing insurance payers to provide "incentives" to physicians to develop electronic health records.

**SB 98**, (*The Delegate John Arnick Electronic Communications Traffic Safety Act*) passed. The bill bans text messaging while driving.

*Neilson Andrews*

## ENVIRONMENT

**Water, Waste Treatment and Land Use.** Generally, progress was made in protecting the environment this legislative session. The requirement for nitrogen removal techniques on newly installed septic systems and regulation of phosphorous in lawn fertilizers will help reduce nutrient overload in the Bay. More citizens will be able to "go to court" to protest land use decisions. Schools and state departments have to recycle. The Smart Growth initiatives by the Administration were a partial success, but weakened by amendments. Several worthy bills fell by the wayside, like regulation of coal combustion byproducts and reporting and enabling regulations for impervious surface. Some proposed measures were deemed a financial burden on administrative department. We look forward to a continuation of progress next year.

**Smart, Green, and Growing – Annual Report – Smart Growth Goals, Measures, and Indicators and Implementation of Planning Visions HB 295.** While this Smart Growth Bill on visions and performance standards passed and is now enrolled, the bill was disappointing in its final form. An annual report to the Department of Planning is required but the bill was stripped of specific goals with numbers and incentives. The original bill would have denied priority state funding related to growth to counties that had not made their incremental progress goals. That is gone along with specifics on land use goals in the priority growth areas. A provision requiring a public hearing on the report by local planning commissions was scratched.

General goals are included and the Department of Planning and National Center\* are charged with developing factors that should be reported besides those specified in the bill. Among the requirements in the original bill that were omitted in the final version were provisions requiring certain stormwater management plans and sediment controls before grading or development permits may be issued. Also, a measure of the planning for affordable housing was dropped. \*The National Center for Smart Growth Research and Education at the University of Maryland College Park.

**The “Terrapin Run bill,” HB297**, part of the smart growth package, passed. It serves to remediate the implications of a court hearing that made it uncertain how a county had to conform to their land use plans by defining the term “consistency” as applicable to the land use actions by local government.

**Chesapeake Bay Phosphorous Reduction Act of 2009 HB 609** - Phosphorous is a major pollutant of the Chesapeake Bay. This bill had a fairly easy time through the Legislature. It would require labeling of lawn fertilizer of phosphorous content and prohibit a person from selling or distributing lawn fertilizer that is not low after April 1, 2011. The Department of Agriculture would regulate manufacture, sale and use of phosphorous fertilizers.

**Standing-Miscellaneous Environmental Protection Proceedings and Judicial Review HB1569**

The ability to seek judicial review on decisions by MDE and permits and license decisions of the MDE or the Department of Public Works has been expanded to persons entitled by Federal standards to do so. This bill is applauded by environment groups as Maryland was one of the most restrictive states in the Union.

**Chesapeake Bay Nitrogen Act of 2009 - SB 554/ HB 176** passed by one vote in the Senate, requires that nitrogen removing technology be installed on new septic systems within the Critical Areas. Nitrogen is a chief culprit in causing huge algal blooms that consume the oxygen in Bay waters. This bill was broader, but was amended to apply only to Critical Areas. Also, criminal penalties were removed, although civil penalties remain. Maryland, by approving this measure will now be a national leader in this endeavor, according to the Maryland League of Conversation Voters. The Chesapeake Bay Trust Fund will be used to help finance these up-grades.

**State Recycling: HB 595 and SB 473/ HB 1290** require that all public schools and state facilities recycle paper, aluminum, glass, and plastic.

**Program Open Space**--has survived threats to raid it to balance the budget.

**Natural Resources - No Net Loss of Forest Policy - Forest Conservation Act SB 666/HB 1291.** This bill to attempt to maintain forest cover in Maryland passed and will become law. It subjects more acres to the Forest Conservation Act, authorizes protective easements, and contains further measures to require and encourage the preservation of forests.

*Susan Cochran*