

# THE WEEKLY WHIP

TUESDAY, APRIL 10, 2007

This final edition of the Weekly Whip is designed to go beyond the talking points to provide a more complete summary of the major bills passed this year. Please note this is not a comprehensive policy analysis.<sup>1</sup> Rather, it is designed to provide some context around the major issues, which we hope you will find helpful as you compose newsletters, constituent correspondence, and attend community meetings.

According to the Department of Legislative Services, over 800 bills passed both chambers this year. Many of these bills were sponsored by members of the Democratic Caucus, and, unfortunately, most of these bills cannot be outlined in this document. To our “unsung heroes,” we offer congratulations on your legislative accomplishments, and we hope you will communicate with your constituents about the issues you championed this year.

## BUDGET

In January the Governor introduced a **balanced budget for FY 2008**. His proposal increased spending 2.5% over the previous year, a lower rate than 9 of the last 10 budgets, and came in under the spending affordability guidelines. The Governor introduced four supplemental budgets, narrowly tailored to advance prison reform, enhance Juvenile Services, expand healthcare coverage for children, and provide funding for Prince George’s County hospital. The Governor’s Office acknowledged the supplemental budget redirected funds in anticipation of cuts by the legislature.

During session the Board of Revenue Estimates revised general fund revenue projections downward by \$50.2 million – \$24.4 million for FY 2007 and \$25.8 million for FY 2008. The Comptroller described the projections as a “modest mid-course adjustment” to account for lower than anticipated personal income tax and business franchise tax collections. To adjust to new spending in the supplemental budgets and the revenue write down, the Appropriations Committee cut \$148.5 million in general and special fund spending from the budget. The majority of cuts limited the growth of specific programs, eliminated jobs that have been vacant for more than a year, reduced surpluses in specific programs, or substituted federal funds for state funds.

The final version of the budget maintains the State’s commitment to public education, enhances higher education, protects healthcare for low-income Marylanders, fully funds state and local land preservation programs and parkland enhancements, continues efforts to protect the environment and restore the Chesapeake Bay, enhances salaries and benefits for State employees, **leaves a cash balance of \$930 million**, and meets the spending affordability guidelines.

## EDUCATION & HIGHER ED

As Maryland’s knowledge-based economy expands, we must continue to build a world class K – 12 public education system. In this year’s budget, the legislature **increased funding for public education by \$691 million**, or 15.4%. Local school systems will use these resources to reduce class sizes, hire more teachers, purchase text books and computers, and offer full-day kindergarten programs. Aid to public education now represents 35% of the state’s operating budget.

With the tremendous resources dedicated to improving public education over the last four years, the legislature must provide funding to invest in aging schools and build new schools to accommodate regional growth. Two years ago, the legislature provided \$250 million for school construction, and last year the legislature provided \$320 million to bring schools up to current building codes, safety and capacity standards. This year, the legislature **invested a record \$400 million to build and renovate schools**.

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<sup>1</sup> For those of you interested in a detailed policy analysis, the Department of Legislative Services produces the annual *90 Day Report*, which should be available later this month.

Maryland has the nation's highest percentage of college graduates and post-graduates in the workforce, which drives investment in the State's knowledge-based economy. To remain a national leader, the State faces the dual challenge of enhancing higher education while containing costs for middle class families. The legislature met that challenge in this year's budget. The legislature **provided funding to expand capacity at the state's public colleges and universities**, including an 18% increase in aid to community colleges. For the second year in a row, the legislature **froze undergraduate tuition** at the University System of Maryland and Morgan State University, so middle class families continue to have access to Maryland's world class university system.

The legislature **increased funding to Maryland's historically black colleges and universities**, including \$85 million in capital funds for the Coppin State University Physical Education Complex, nearly \$5 million in operating funds for Morgan State University, and \$4 million for enhancements through the University System.

## ELECTION REFORM

Efforts to establish early voting last term were vetoed, overridden by the legislature, challenged in – and overturned by – the court. Guided by the court ruling, the legislature passed a **constitutional amendment to permit on-site early voting**. At last count, 35 states have early voting. Conservative states like Utah and Wyoming have it, as do liberal states like Hawaii and Vermont. Some states allow early voting at satellite locations. West Virginia, for example, has early voting at courthouses, North Carolina at libraries, California at shopping centers, and Colorado at grocery stores. The average time for early voting in other states is 10 to 14 days prior to the election.

In an effort to make Maryland a more enticing battleground for presidential candidates, HB 1434 **moves the State's presidential primary from the first Tuesday in March to the second Tuesday in February**. In 2008, voters will go to the polls on February 12.

## ENVIRONMENT

The legislature **passed a Clean Cars bill**, which makes Maryland the 11<sup>th</sup> state in the nation to require every new car sold in the State to be more fuel efficient. Building on the legislature's Healthy Air Act of 2006, which addresses air pollution from coal-fired power plants, this initiative will further reduce smog and other toxic compounds in the air that contribute to cancer, asthma, and other debilitating diseases. The Maryland Department of the Environment estimates Marylanders drive over 135 million miles daily, creating up to 40% of the State's air pollution. In addition to cleaning up our air, Clean Cars will help clean the Bay, because up to 1/3 of the Bay's nitrogen comes from vehicle emissions. Experts estimate Clean Cars will have the same effect as taking 190,000 vehicles off of the road.

The Chesapeake Bay's oyster population was once capable of filtering the Bay's water in a week. Today it would take the oyster population over a year. With disease, over-harvesting and a dwindling population, the legislature acted to **restore the Bay's natural filter – its native oyster population**. Researchers at the University of Maryland Center for Environmental Science grow oysters in a controlled environment and have planted over 100 acres of healthy oyster beds in the Bay. The legislature included funding to expand this successful, research-based program in order to maximize its positive environmental impact. The legislature also included \$3 million in the budget to continue construction of oyster habitats statewide.

Development is one of the most significant threats to the Chesapeake Bay. With HB 1220, the Chesapeake Bay and Atlantic Coastal Bays Green Fund, the House moved to reduce the impact of runoff pollution from development. HB 1220 would have created **incentives for developers to build in a way that minimizes the environmental impact of projects**, or pay into a fund devoted to Bay restoration and smart growth. This legislation recognized the link between development and the health of the Bay – a critical linkage that must be addressed if Bay restoration is ultimately to succeed. *The Senate did not take action on this bill.*

The legislature established **stricter standards for stormwater runoff from new development**. Stormwater runoff creates 16% of the phosphorus, 11% of the nitrogen, and 9% of the sediment that feed algal blooms that create dead zones in the Chesapeake Bay each summer. HB 786 requires developers to incorporate environmental site design into their stormwater management plans, which will minimize the impact of stormwater runoff into the Bay.

## HEALTHCARE

Nearly 200,000 Marylanders lost their health insurance in the last four years as the cost of coverage has become prohibitive for many individuals, families, and small businesses. The state's uninsured population stands at nearly three quarters of a million, and 90% of these people are employed or are dependents of working families. The uninsured are turning with increasing frequency to emergency room treatment for basic care, which makes expanding coverage critical to the viability of our healthcare delivery system. Ensuring access will ease the burden on the system and moderate costs for everyone. It will also improve the lives of thousands of people who have no place to turn when they – or their children – get sick. HB 754 proposed **increasing the cigarette tax to fund a comprehensive healthcare expansion**, that would have provided access to 1/3 of the State's uninsured and guaranteed access to every child in the State. *The Senate did not take action on this bill.*

According to the American Lung Association, 49,500 people die each year from exposure to secondhand smoke. The Bloomberg School of Public Health estimates the State spends \$600 million each year on public health issues related to second hand smoke. This year, Baltimore City became Maryland's 7<sup>th</sup> jurisdiction to address this public health concern by enacting a ban on smoking in bars and restaurants. The Clean Indoor Air Act, which passed the House with bi-partisan support, **prohibits in-door smoking in bars and restaurants**, with no exceptions for private clubs. The bill includes a waiver for businesses that can prove the ban has adversely affected their business.

Maryland has long led the nation in scientific research and innovation. Our researchers have cured some of the world's worst diseases, and our doctors have pioneered cutting edge technology. This session, the legislature **invested \$23 million in stem cell research** to ensure the State continues to lead the nation in scientific research.

## LIVING WAGE

The legislature created a living wage which requires **contractors with a state service contract worth at least \$100K to pay a living wage** to employees who spend at least half their time each week working on a state contract. HB 430 creates a two-tiered living wage to reflect differences in the cost of living in the state: \$11.30 per hour in urban areas (Anne Arundel, Howard, Prince George's, Montgomery, Baltimore City & County), and \$8.50 per hour in rural areas (Eastern Shore, Western and Southern Maryland). The wage will be paid where the work is performed, not based on where the worker lives, and **requires an annual adjustment based on Consumer Price Index**. HB 430 also allows employers to offset part of the wage if they provide healthcare or retirement benefits.

Maryland is the first state in the nation to enact a living wage, and 120 cities and counties have living wage laws, including Baltimore City (\$9.30/hour), Prince George's (\$11.25/hour) and Montgomery Counties (\$11.60/hour). Workers in jobs affected by living wage legislation typically earn between \$7.10 and \$7.75 per hour, less than the federal poverty level for a family of 3. At these rates, families depend on social services that cost taxpayers as much as \$9,000 per year. The Economic Policy Institute studied the impact of Baltimore's living wage on its budget and found: "nominal contract costs for the city rose just 1.2% - lower than inflation during the same period." The study, conducted by researchers at Johns Hopkins University, concluded: "the budgetary impact of the living wage (in Baltimore) has been insignificant."

## PERSONNEL REFORM

Personnel reform is a **long term issue that is critical to maintaining integrity of the state workforce**. The Special Committee on State Employee Rights and Protections examined the prior administration's hiring and firing practices, and found some at-will employees were fired for arbitrary political reasons. The Special Committee recommended two bills to reform the personnel system, which passed unanimously. These bills are designed to **ensure the state attracts and retains the most qualified employees – regardless of who occupies the Governor's office**.

HB 161 limits the Governor's Appointments Office's ability to terminate at-will employees in state agencies by defining the hiring and firing powers of that office. HB 162 prohibits firing at-will employees without cause, and eliminates political affiliation as grounds for termination. The bill requires all employees have a written job description and evaluations, and prohibits the firing of an employee to create a vacancy based on party affiliation.

## PUBLIC SAFETY

The legislature took decisive action to address public safety concerns this year. Building on its work during the 2006 special session to protect children from sex offenders, the legislature **eliminated parole eligibility for the most violent sexual predators**. Under HB 930 / SB 413, anyone over 18 convicted of first degree rape or sexual offense against a victim under 13 is subject to a twenty-five year mandatory minimum sentence, without parole. Anyone over 18 convicted of second degree rape or sexual offense against a victim under 13 is subject to a five-year mandatory minimum, without parole. This was the final step in completing Maryland's Jessica's Law.

The legislature **increased penalties against repeat child sexual abusers**. HB 213 / SB 170 designate sexual abuse of a minor as a crime of violence when the perpetrator is over 18 and the victim is under 13. This designation, which already applies to crimes like murder, rape and kidnapping, requires a mandatory minimum sentence for each offense, up to a life sentence without parole for the fourth offense. This also increases the time an offender must serve before parole eligibility by 2/3.

The legislature **cracked down on criminal gangs in Maryland**. According to the Governor's Office of Crime Control and Prevention, gangs are an "emerging problem" statewide. Three national gangs – the Bloods, Crips and MS-13 – operate in Maryland, and eight jurisdictions – Allegany, Baltimore, Frederick, Harford, Montgomery, Prince George's and Wicomico Counties and Baltimore City – have a disproportionate number of neighborhood gangs. Under provisions of HB 930 / SB 413 a gang member convicted of crimes committed in support of the gang is subject to up to 20 years in prison and/or a fine of up to \$100,000. With this bill, Maryland joins 31 states that have enacted similar laws to combat the spread of gang violence.

The legislature **improved safety at Maryland prisons** by approving \$6.7 million to hire 155 new correctional officers and \$33 million for a new-medium security prison in Hagerstown. In addition, the Governor closed the Maryland House of Correction in Jessup following several incidents of inmate violence, including the murder of Correctional Officer David McGuinn and the stabbing of Correctional Officer Edouardo Edouazin. The prison, which has been in continual use since 1878, was one of the most dangerous and expensive in the state, with average daily cost per inmate approximately 1/3 higher than other facilities.

## REAL ESTATE CONSUMER PROTECTIONS

The legislature passed several bills to **reform the ground rent system to protect homeowners from abuse**. The Governor signed a bill during session to **prohibit the creation of new residential ground rents**. In addition, the legislature passed bills to create a process for a homeowner to **redeem a ground rent**, to **end the practice of ejecting homeowners** for late or non-payment of ground rent, and clarifying the **responsibilities of ground rent owners** to provide notice to their tenants.

With SB 3, the legislature moved to protect property owners in cases of eminent domain by **doubling the payment in excess of acquisition costs for displacing residential property owners** and the payment to help **displaced owners rent a transition property**, and **increasing by 600% the limit on reimbursement to displaced owners**.

## TAX LOOPHOLES

The House of Delegates voted to **eliminate a loophole that allows corporations to evade recordation and transfer taxes in real estate deals**. HB 475 would have closed that loophole by imposing recordation and transfer taxes on the transfer of real estate worth at least \$1 million when the property is transferred through the sale of the controlling interest of a corporation. The bill dedicated the revenue generated by closing the loophole to school construction, restoring state parks, and open space programs. *The Senate did not take action on this bill.*

The legislature **prohibited companies from using captive Real Estate Investment Trusts (REITs) to avoid paying corporate income taxes**. HB 1257 prohibits out of state companies from using these trusts to avoid paying hundreds of millions of dollars in taxes to state governments. According to *The Wall Street Journal*, in one four-year period, Wal-Mart avoided \$350 million in taxes across the country by using this strategy.