The Maryland Public Policy Institute

The Annapolis Report

A Review of the 2014 Legislative Session

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The Maryland Public Policy Institute

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INTRODUCTION

IN THE 2014 SESSION OF THE GENERAL ASSEMBLY, legislators passed hundreds of bills. As in past years, legislators introduced many more bills that would have made both large and small changes to Maryland law. Much of the legislation that did pass dealt with minor areas of law or changed local laws. However, legislators did approve some bills that will bring significant changes in the coming decades.

This Annapolis Report reviews the major pieces of legislation that legislators passed, analyzing what legislators did (and sometimes did not do). Occasionally we also discuss legislation with a smaller impact or bills that failed to pass. As with previous Annapolis Reports, this is not an exhaustive list of the General Assembly's accomplishments. But, we hope, it will give the public a good idea of what legislators accomplished (or did not accomplish) in 2014.

Numerous organizations and individuals analyze the work of Maryland legislators. In most cases, these groups grade or critique individual legislators according to a certain ideological standard. The Annapolis Report departs from this method. Instead, we have analyzed and graded the General Assembly as a whole.

Part of the mission of The Maryland Public Policy Institute is to "promote public policies at all levels of government based on principles of free enterprise, limited government, and civil society." That is the standard we used to choose the legislation we analyzed and graded.

The legislation examined in this report is divided into seven areas: state budget, taxes, state economy, health care, transportation, crime, and education. Previous Annapolis Reports covered more issue areas. However, unlike past legislative sessions, there were no major actions in areas such as energy or pensions.

Before analyzing the legislation, this report begins with some commentary on these issue areas along with grades for legislative action taken on them.

COMMENTARY

This session of the Maryland General Assembly fared poorly in many areas regarding free markets, fiscal responsibility, or civil society. Legislators failed to act prudently in this legislative session by increasing spending, burdening businesses with a large minimum wage hike, and passing an open-ended bailout for the disastrous Affordable Care Act rollout, for example.

State Budget

GRADE: F

Instead of showing fiscal responsibility, legislators passed a budget that continues to grow spending. This year, spending increased by $1.6 billion, or 4.3 percent. By contrast, Maryland's economy showed no growth in 2013.[1] Despite the stagnant economy, the state projects that revenues will increase substantially in coming years. Even in an optimistic revenue picture, the structural deficit is projected to increase almost $200 million over the next five years. If Maryland's economy continues to perform poorly, that structural deficit will only grow.

The excessive increase in spending, the reliance on overly-optimistic revenue projections, and the inability to deal with the structural deficit all combine to give a failing grade for legislators in this year's session.

Taxes

GRADE: F

While the General Assembly did not enact major tax increases or tax decreases this year, it did enact minor tax law. Its lone positive action was to bring Maryland's estate tax law in line with federal estate tax law. This move will simplify filing for Marylanders who face this tax and will also offer minor tax relief to these state residents.

On the whole, however, legislators' actions on taxes were negative. Instead of offering wholesale tax relief, they instead offered small, targeted tax breaks for behaviors they favored. This type of politically-directed tax relief is generally bad policy. It leads to tax policy where overall tax rates are high, and an individual taxpayer can only lower his burden by undertaking the actions favored by legislators.

State Economy

GRADE: F

The failing grade legislators received in this category is due to a combination of factors. The bills they passed to "help" the state economy were generally corporate welfare programs or tax credits for politically-connected industries. Not only do these types of programs show no track record of success in boosting economic growth, they also cost state taxpayers millions of dollars a year.[2]

In addition, legislators passed a minimum wage hike this year that will have profoundly negative effects on the state economy. In addition to hurting businesses throughout the state, this legislation will also cost taxpayers at the state and local level, since these government employers will be forced to raise wages for their lower-paid employees, too.

There were minor modifications of burdensome local regulations. However, these bills do not have a large impact on the overall state economy and thus do little to improve the overall score in this category.

Health Care

GRADE: C

Health care is a difficult category to grade. This year, legislators were forced to act to address the disastrous rollout of the state's health insurance exchange website. Because of ongoing problems with this website, legislators passed a law to allow some individuals to enroll in a state health insurance program. While this action may have helped solve the immediate problem, this legislation receives a negative score in light of what legislators could have done to fix the underlying problems.

However, it is unclear how negative this action will be for the state. Legislators passed the bill without a firm idea of its price tag. It could lead to minor costs to the taxpayers if few Marylanders enroll in the state insurance program.

Or, heavy enrollment could lead to significant taxpayer expenditures.

This irresponsible legislation is tempered by progress on the state's Certificate of Need law. Legislators slightly loosened state control of certain facilities, and they rejected attempts to expand this onerous law to hospice care.

Transportation

GRADE: A

The General Assembly enacted no major transportation legislation. Legislators did not approve bills that would have allowed local governments to impose new fees to fund transportation projects. They did pass a much-needed revision of the state's speed camera law.

Crime

GRADE: A

By strengthening the standards for police searches, legislators reduced the size and scope of state government. They also loosened access to medical marijuana for sick Marylanders and passed legislation that makes it easier to report overdoses without facing legal consequences. Overall, these bills, while not perfect, are positive steps towards limiting government involvement in Marylanders' personal lives.

Education

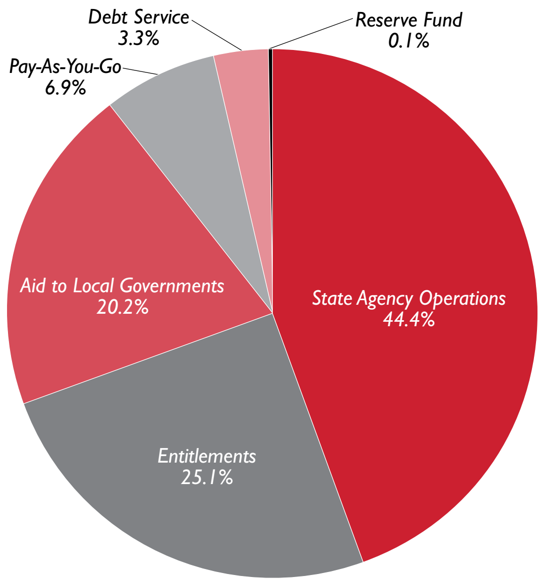
GRADE: F

From expanding pre-kindergarten programs with no proven record of success to expanding the state's expensive prevailing wage laws, legislators moved backwards in terms of sound education policy in Maryland. They also failed to address statewide bipartisan concern with Maryland's College and Career-Ready Standards.

METHODOLOGY

Similar to past years, The Annapolis Report scored and graded legislation based on three factors: its positive or negative implication for the state; its success in the General Assembly; and its cost to both taxpayers and businesses. Not all legislation passed or considered by the General Assembly was evaluated. The attempt of this report is to highlight legislators' actions, giving an overall picture of major changes to state law passed in the 2014 legislative session.

FIGURE 1 MARYLAND BUDGET BY PURPOSE



STATE BUDGET

The budget for Fiscal Year (FY) 2015 weighs in at $38.9 billion and is described as a "current services budget." The term, however, is slightly misleading as spending still grew by 4.3 percent ($1.6 billion) over last year.[3] Of the almost $39 billion budgeted, 44.4 percent is allocated to state agency operations, 25.1 percent to entitlements, 20.2 percent as aid to local governments, 6.9 percent to pay-as-you-go (PAYGO) capital operations, 3.3 percent to debt service, and 0.1 percent to the State Reserve or "Rainy Day Fund."

Structural Deficit Yet again, the state grapples with a structural deficit that is only projected to increase, from $237 million in FY 2015 to $404 million in FY 2016 and $431 million in 2019.[4] The budget will also leave the state with a cash shortfall of $395 million for 2016,[5] attributable to $247 million in additional debt service costs; $67 million in increased employee/retiree health benefits; $50 million in mandated Open Space repayment; a $50 million phase-in of $300 million supplemental retirement payments; $38 million required to annualize the yearly salary increase to state employee salaries; $33 million in lower revenues related to estate, earned income, and E-Nnovation legislation; and $15 million required to support cost increases from the minimum wage increase, library funding formulas, and E-Nnovation (research endowment).

Budget Transfers State revenues grew by a modest 1.5 percent in 2014 but will increase an estimated 5.2 percent for 2015 due to anticipated employment and sales tax growth. Still, the FY 2015 budget relies on $523.3 million in actions that benefit the General Fund (GF) for FY 2014/2015.[6] The Budget Reconciliation and Financing Act (BRFA) of 2014, enacted as Senate Bill (SB) 172,[7] relies on $128.3 million in transfers from Special Funds, $39.1 million in increased revenues, and $355.9 million in reductions to expenditures.[8]

The largest transfers from Special Funds include $18.9 million from unclaimed credits from the Sustainable Communities Tax Credit, $31 million from the University System of Maryland, and $69.1 million from Program Open Space.[9] These transfers are either repaid by issuing more debt, by scheduling payments from future budgets, or by simply forcing programs to operate without the missing funds.[10]

State Reserve The state's Rainy Day Fund is maintained at or above 5 percent of estimated revenues; however, a planned contribution of $204.5 million was revised to be a withdrawal of $208.5 million.[11] Future budgets for FY 2016-2019 assume an annual contribution of $50 million to bring the fund towards 7 percent of anticipated state revenues. This annual figure is a key factor in the state maintaining its high bond rating.

Human Resources and Public Pensions Maryland will spend $7.8 billion in 2015 for employee compensation, an increase of $418 million or 5.4 percent.[12] This increase primarily results from a 2 percent general salary increase, coupled with fully-funding merit increases for state employees for the first time since 2009.

The state workforce increases by a modest 0.65 percent, adding 522 positions and bringing the total to 80,744.[13] State employees are also afforded four additional health insurance premium holidays (workdays on which healthcare premiums will not be withdrawn from salaries) and five additional service reduction days, bringing the number of holidays for most state employees to 17.[14]

The 2014 BRFA decreases the state's contribution to supplemental retirement programs from $300 million to $100 million for 2014 and 2015.[15] After that, it will increase by $50 million per year until it is back at $300 million in 2019. This amounts to hundreds of millions of dollars of reductions to the already struggling[16] retirement systems of education employees and an increased burden on local governments that will have to pick up the tab.

Capital Budget The Consolidated Transportation Program includes $4.3 billion in capital spending from 2014-2019 and is evenly split between highways and mass transit.[17] Over this six-year period, about $2.1 billion will go to mass transit and just over $2.1 billion is allocated for roads and highway. The 50-50 split contradicts usage statistics, which show that statewide use of mass transit accounts for just 3 percent of travel in the state, and that the same share of passengers uses transit now as compared to 1980.[18]

Of the total capital budget for 2014, just over $1.5 billion is allocated to other capital projects besides transportation.[19] This includes spending on state facilities such as colleges, hospitals, and correctional facilities; grants to local governments for similar facilities; environmental programs; and local projects and legislative initiatives. This $1.5 billion is funded in large part through the sale of General Obligation Bonds authorized by SB 171,[20] $4.6 million in Qualified Zone Academy Bonds authorized by SB 218,[21] $32 million in Academic Revenue Bonds for University of Maryland facilities authorized by SB 998,[22] and $336 million on a PAYGO basis through the operating budget. In other words: less than one third of the capital budget not allocated to transportation is provided by currently-available funds, although this is typically reconciled by the long life of the assets created.

TAXES

Despite the ongoing structural deficit and Maryland's penchant for spending, the 2014 legislative session did not include any noteworthy tax increases. Although several dozen bills dealt with the broad subject of taxation, the vast majority fell into two main categories: tax credits and property taxes. Of these, many were mere modifications to existing tax code to bring state law in line with federal regulations, but most were intended to provide some amount of economic relief in perennially difficult times.

Tax Credits Undeniably, Maryland residents are taxed more than residents in most states,[23] so any attempt to alleviate some of that burden could be a step in the right direction. However, aside from the estate tax legislation discussed below, Maryland legislators do not work to offer broad-based tax relief. Instead, they support legislation that offers targeted tax credits or deductions if a taxpayer engages in certain behavior. This type of tax relief may seem a laudable way for an elderly renter or a foster parent get some tax relief. Overall, however, this type of tax legislation complicates the tax code and indirectly raises the burden on other taxpayers. Instead of targeted tax credits or deductions, a better type of tax reform is broad-based and not dependent on certain actions that politicians favor.

House Bill (HB) 198[24] expands the state tax refund for low-income individuals from 25 to 28 percent of the federal earned income credit. SB 354,[25] the "Renter's Tax Credit," is really a direct payment to elderly or disabled renters, albeit a mild one. HB 699[26] allows foster parents to subtract up to $1,500 of unreimbursed expenses on behalf of a foster child from their state income tax. And SB 908[27]/HB 923[28] extend the credit for mortgage debt relief to cover tax years 2014 and 2015.

Other tax bills are aimed at helping businesses and stimulating employment. These bills are corporate welfare promoted in the guise of tax relief. HB 668[29] expands the eligibility for hiring tax credits under the Health Enterprise Zone program and extends the program one year through June 2017. HB 510[30] extends the Sustainable Communities Tax Credit Program through FY 2017 and allows the Maryland Historical Trust to issue up to $4 million in credits to small commercial projects. And SB 570[31] allows the Maryland Department of Business and Economic Development (DBED) to issue $9 million in grants for research and development—an increase of $1 million.

Another bill aimed at job creation, SB 1051[32] would have increased tax credits going towards film production in the state from $7.5 million to $18.5 million. When the bill failed to pass, the BRFA was used as a back-up source of funding for Hollywood interests. To encourage production of television series *House of Cards*, SB 172 authorized the use of $2.5 million from the Special Fund for Preservation of Cultural Arts in Maryland and $5 million from the Economic Development Opportunities Program Account (the "Sunny Day Fund") as supplemental tax credits to film production.

While this legislation was promoted as a way to create jobs, there is little evidence that film tax credits of this sort actually work as advertised. The non-partisan Tax Foundation notes that "film tax credits do not pay for themselves. While some benefits accrue to in-state filmmakers and suppliers, on the whole they are a net transfer from taxpayers to out-of-state production company beneficiaries."[33]

Of the minor changes to existing tax code, one stands out. HB 739[34] aims to bring Maryland's estate taxes in line with the federal estate tax. It will gradually phase in higher exclusions for estate taxes from $1.5 million in 2015 to $5.9 million in 2019.

Property Taxes Although Baltimore City needs a property tax revolution, the Assembly took no significant steps in that direction this session. HB 93635, however, offers a glimmer of hope to city residents stuck paying more than twice the property tax rate of any surrounding county. It mandates that a study be completed by the end of 2014 on the feasibility of increasing Baltimore City's Homestead Property Tax Credit cap on assessments and using the increased revenue to offset the reduction in revenue that would result in a general cut to property taxes.

Baltimore City also enacted several changes to property tax law that will affect residents and businesses in the near term. HB 920[36] grants a property tax credit worth $4,000 to homeowners who received the Homestead Property Tax Credit during the past five years and have moved into another city residence. SB 267[37]/HB 314[38] extend the City tax credit for newly constructed dwellings from June 30, 2014 to June 30, 2019. And HB 223[39] removes the stipulation that urban agricultural property be used exclusively for agriculture to receive the tax credit.

Of course, not all changes to property tax law concern Baltimore City. HB 863,[40] SB 605,[41] HB 932,[42] and SB 616[43]/HB 321[44] all are provisions in state law for local counties and municipalities to change their property tax code in specific narrow ways that may be deemed economically beneficial, humanitarian, or environmentally advisable. However, all these changes, much like the 60+ bills that deal with alcohol restrictions, are too niche for the focus of this paper.

STATE ECONOMY

The most significant bit of legislation affecting the state economy is HB 295,[45] which raises the state minimum wage from $7.25 to $10.10. The increase will be phased in over the course of four years, beginning in 2015 and concluding in 2019. It is anticipated that this legislation will cost the state government $8 million in FY 2016 and $35 million by FY 2019. Local jurisdictions, too, will be hit with higher expenditures. As the fiscal note states, “Local government expenditures increase significantly for certain local jurisdictions to pay additional wages to minimum wage government employees.” The bill also stipulates a 3.5 percent annual raise for community providers for the developmentally disabled until FY 2019, which is estimated to cost an additional $32.7 million in 2016 and $139.8 million in 2019.

When the cost of hiring low-skill employees is increased, fewer low-skill employees will be hired. An increased minimum wage throughout Maryland might discourage employers from hiring people that they otherwise would have.

Montgomery County and Prince George’s County already passed minimum wage legislation in 2013 that will raise the minimum wage in these counties to $11.50 by October 1, 2017. This is allowable under the Express Powers Act—and other counties are free to do the same.

State Investments Many bills aim to stimulate the state economy through targeted investments, usually accomplished by creating new funds in sectors the government wants to see grow. A shining example of one such endeavor is the Regional Institution Strategic Enterprise (RISE) Zone Program established by SB 600[46]/HB 742.[47] Qualified businesses and organizations can apply to local authorities for property tax credits, income tax credits, and assistance from the state’s economic development and financial assistance programs. The RISE Zone Program is an expansion of one that has been in place since 1982 and seeks to stimulate growth in economically-distressed areas through tax credits of up to 100 percent on qualifying investments for five years.[48]

Similar to the RISE Zone Program’s emphasis on targeted growth, SB 1054 permits the DBED to establish “arts and entertainment districts” in which artists may receive benefits such as state or local income tax credits, property tax credits, and exemptions from admissions or amusement taxes. Like the RISE Zone Program, these arts and entertainment districts attempt to create growth and prosperity in predetermined geographic areas.

A number of bills focus on industry rather than location by creating funds for specific investment purposes. SB 601[49]/HB 741[50] create the Maryland E-Nnovation Initiative Program, a fund for higher education research endowments, that seeks to raise $8.5 million annually from 2016 to 2019 through state admissions and amusement taxes and private funding. SB 603[51]/HB 740[52] establish the Cybersecurity Investment Fund to create high-tech jobs, SB 889[53]/HB 1060[54] create the Northeastern Maryland Additive Manufacturing Innovation Authority and Fund to research 3-D printing, and HB 553[55] establishes the Energy-Efficient Homes Construction Loan Program to provide construction for “low-energy” and “net-zero” homes.

Finally, a few bills are aimed at consolidating or otherwise retooling existing government agencies to better serve the local community. HB 451[56] expands the Neighborhood Business Development Program to focus on food-related enterprises in areas that lack healthy eating options (so-called “food deserts”). SB 661[57]/HB 583[58] modify the Equity Participation Investment Program to focus more on small, locally-owned businesses rather than on franchises. And HB 453[59] consolidates four development organizations that share similar goals into the Rental Housing Program.

Horse Racing and Gaming Since the expansion via referendum of legal gaming in the state two years ago, the issue has receded from its previously prominent position. However, some legislation passed in 2014 that affects legal gaming and the thoroughbred racing industry. First, the Maryland Horse Racing Act was extended by 10 years to 2024 by SB 527[60]/HB 988,[61] thus continuing the state subsidy of a dying business. Additionally, the BRFA for 2014, SB 172, mandates that $500,000 annually from 2015–2019 be used from gambling profits to pay for unspecified "facilities and services" within three miles of Laurel Race Course.[62]

Business Regulation No legislative session would be complete without a multitude of new or modified restrictions on businesses, and this year was no exception. Many new laws or changes to existing laws are aimed at public safety, though in some cases our legislators actually voted to remove restrictions and make the state a little freer. SB 306,[63] for example, repeals a restriction in Montgomery County on barbershops being open more than six days per week. Likewise, car dealers in Charles County will now be able to sell on Sundays due to SB 344[64]/HB 344.[65]

In the "public safety and welfare" category, HB 1352[66] tightens oversight of charitable organizations that solicit donations in the state by raising charity registration fees and using the fees for increased investigation and enforcement. SB 382[67]/HB 918[68] creates a set of requirements that owners and operators of automated purchasing machines (also known as "reverse vending machines") must follow to discourage purchase and sale of stolen property. HB 1159[69] will prevent retailers from selling "herbal incense" along with cigarettes. SB 75[70]/HB 359[71] prohibit the sale of grain alcohol higher than 95 percent alcohol by volume. And SB 401[72]/HB 947[73] tighten regulations on the inspection of balconies in multi-family dwellings.

A few bills also affect worker's rights, such as HB 467,[74] which should make it easier for parents to grant permission to their children aged 14–17 to work. And SB 737[75]/HB 1026[76] require employers with 15–49 employees to offer up to 6 weeks per year of unpaid leave for the birth of a child, adoption, or placement of a new foster child.

While this is not a complete listing of the new and modified Maryland business regulations, certain omissions had to be made for the sake of brevity while maintaining the overall picture (see the section on taxes).

HEALTH CARE

Health care issues played a large role in this session of the General Assembly due to Maryland's botched rollout of the Affordable Care Act's health insurance exchange. While this was not the only health care issue that legislators addressed, it was the most prominent.

Maryland Health Benefits Exchange On October 1, Marylanders who went to the website for the Maryland Health Benefits Exchange (MHBE) discovered it was not "real simple" as President Barack Obama had promised to a crowd in Largo in September.[77]

In fact, the exchange website crashed that day and was plagued with problems for months. In January, a *Baltimore Sun* reporter's attempt to sign up for health insurance "took 5 hours and 22 minutes over two days, two calls to the exchange's call center, seven times entering my personal information, two computers and two web browsers."[78]

While attempts were made to fix the MHBE between October and the end of December, it was clear by the start of the legislative session that legislation was needed to deal with the exchange's problems.

The legislation that emerged was SB 134, which allowed anyone to enroll in the Maryland Health Insurance Program (MHIP) who could prove he or she tried to enroll in MHBE but had been unsuccessful. Prior to this legislation, MHIP offered subsidized health insurance to certain Marylanders making less than 300 percent of the federal poverty level.

Ironically, 2013 legislation to implement the ACA called for MHIP to be closed to new enrollment and re-enrollment of existing members on December 31, 2013, with the rationale that with the creation of the MHBE, this state-subsidized insurance program would no longer be necessary.[79]

The cost to provide coverage to these new MHIP enrollees was unknown. As the DLS stated in its fiscal note, "MHIP special fund expenditures increase, by a potentially significant amount, in fiscal 2014 to subsidize health insurance coverage for bridge eligible individuals who enroll in MHIP. Special fund expenditures could continue in fiscal 2015 for individuals who remain enrolled in MHIP."

Because of the ongoing problems with the MHBE and the unknown number of people who were eligible for MHIP enrollment, DLS failed to provide a firm cost estimate. Even without an idea about how much this legislation would burden Maryland taxpayers, SB 134 passed 94-42 in the House of Delegates and 34-7 in the Senate.

Certificate of Need In Maryland, if you want to open a new health care facility or expand an existing one, you need to get permission from the state government. The state's Certificate of Need (CON) law mandates that health care facilities and services are built only if needed. The need, however, is not determined by health care consumers or the market but by state bureaucrats. However, government-determined "need" is not the only factor in granting a CON. The new facilities must also meet other qualifications, such as being "of high quality." They must also ensure that they will not impact the "viability" of competing health care providers.[80]

As a Federal Trade Commission and Department of Justice report concluded, CON laws do not control costs and they hurt consumer welfare.[81] By reducing the supply of health care services, they favor existing health care providers over consumers.

The only change to the CON process that was passed by legislators and signed by the governor was a bill that would make an exception to CON law for certain facilities: new comprehensive care facilities owned and operated by the Maryland Department of Veterans Affairs.

The rationale for this legislation (SB 89) is that current CON law would not allow for the building of a new comprehensive care facility for veterans. The state has one such facility, but the federal Department of Veterans Affairs would like to authorize another in the state.

The Department of Legislative Affairs describes the problem in its fiscal note:

> *Due to the number of nursing home beds already available in Baltimore County, a CON for a new facility would be denied based on a lack of demonstrated need. Alternatively, MDVA could purchase excess bed capacity from other county facilities looking to divest. However, according to MHCC this method is unlikely to provide a sufficient number of beds for a veterans' facility.*[82]

This legislation passed both the House of Delegates and the Senate unanimously. This agreement indicates that legislators recognize the problems caused by the CON law. They see that it will limit the amount of health care being provided in this instance. However, this recognition does not seem to extend to privately-operated facilities. Only those owned by MDVA are allowed to operate with enough freedom to meet demand for services.

One bill, HB 1253/SB 646, would have changed the CON process for hospices to further protect existing hospice providers. As with other health care providers, the CON process is already very bureaucratic for hospices. For a new hospice to open, it must prove there is a demand for its services as well as ensure this new hospice will not adversely affect the viability of other hospices, among other things.

Under this bill's procedure, the CON process would be even more detrimental to new hospices looking to enter the market. If this legislation had been enacted, the CON review board would have needed to consider the ability of current hospices to meet demand. If existing hospices could grow to meet this demand, a CON would not be provided to new entrants into the market.[83] This legislation was intended to state precisely that the CON is intended to reduce, or prevent completely, new providers that would compete against existing hospices. The legislation died in committee.

Licensing Maryland requires a license for the practice of many medical professions in the state. For the privilege of state regulation, these practitioners must pay the state a licensing fee and be subject to the discipline of a state board. This General Assembly session expanded the number of licensed professions.

HB 694 and SB 150 required that behavior analysts be licensed by the state. These analysts are psychologists who attempt to improve human behavior through instructions and environmental design. SB 314 and HB 402 established licensure for naturopathic doctors, who practice a form of alternative medicine.

Medicaid The budget enacted by the governor increased Medicaid spending by 11.5 percent over the previous year, which brings $839 million in additional spending for the program. The reason for this jump in spending is that costs are rising faster than was previously anticipated.

As part of the state's enactment of the Affordable Care Act, policymakers expanded the Medicaid program to meet new federal guidelines. This expansion has led to a much higher cost than projected. According to DLS, "enrollment in the new ACA expansion eligibility category in February 2014 was already at the anticipated fiscal 2015 level."[84]

This large growth in enrollment puts the state in a situation where even the big increase in funding for the Medicaid program in FY 2015 may leave it "potentially underfunded," according to DLS.[85]

TRANSPORTATION

The General Assembly passed no significant transportation-related legislation this session. The major transportation news was that legislators failed to provide a fix for local transpiration funding.

Transportation Funding Task Force In 2013, the General Assembly and governor signed legislation establishing the Local and Regional Transportation Funding Task Force. This task force was charged with studying the "feasibility of creating regional transit financing entities and local–option transportation revenues…"[86] The task force was intended to recommend ways that county and municipal governments could impose taxes and fees to pay for their transportation funding.

Part of the Transportation Trust Fund revenue is distributed to county and municipal governments to pay for these governments' transportation needs. The state allocated 30 percent of this Highway User Revenue (HUR) to localities prior to the recent recession. When the recession reduced state revenues, legislators and the governor reduced this local share. In 2012, county and municipal governments received only 9 percent of HUR.

For many counties, cities, and towns, the HUR funds comprised most, if not all, of their transportation spending. Many local leaders made restoration of HUR funds a top priority for this session of the General Assembly. The task force did not endorse the restoration of HUR funds, which fell outside the scope of the task force's mandate. However, the task force did acknowledge the importance of these funds: "Restoring support to local transportation infrastructure would benefit local systems within the statewide transportation network, but any efforts to do so must be compatible with the ability of the State to suitably invest in the State's responsibility for the statewide infrastructure."[87]

Instead, the task force recommended that legislators provide the following options for local transportation funding:

- A local-option vehicle registration fee
- The ability to increase the current local-option income tax and devote that revenue to transportation programs
- Expanding the ability to tax real estate transfers

It did not recommend the use of local-option sales taxes or gas taxes.[88]

When the General Assembly convened in January, a variety of bills were introduced to help localities deal with transportation funding needs. HB 1067, HB 1331, SB 765, and SB 664 would have increased the local share of transportation funding for counties and municipalities. This attempt at partially restoring HUR failed. SB 629 would have implemented the transportation funding task force's recommendation on local-option vehicle registration fees. It, too, failed to be enacted.

With the failure of the General Assembly to pass any substantive legislation regarding transportation funding, legislators ensured this issue will remain a hot topic for future legislative sessions.

Speed Cameras Six counties and various municipalities throughout Maryland allow traffic enforcement via speed cameras. After Baltimore City's speed camera program came under scrutiny in 2013 for a high error rate and other problems, legislators drafted bills to tighten the regulation of these cameras. They passed SB 350 and HB 929 to overhaul the speed camera system. Among other things, this legislation reduces the authority of speed camera contractors, ends the payment of contractors on a per-ticket basis, and establishes a system to fine contractors if the speed cameras issue a high rate of erroneous tickets.[89]

CRIME

Legislators made a number of changes to Maryland's criminal laws, adding new categories of crimes and tweaking penalties for already-existing crimes. The most major change to the state's criminal law came in relation to drug laws and privacy protections.

Marijuana Decriminalization SB 364 reclassified the possession of fewer than 10 grams of marijuana as a civil offense from a criminal misdemeanor. A fine of $100 will be levied on the first citation and a fine of $250 for the second offense. Thereafter, each subsequent offense will result in a $500 fine. Courts may also sentence repeat offenders to a drug education program.

HB 880 and SB 658 would have gone even further than decriminalization. These bills would have legalized possession of marijuana and established a legal framework for establishments that sell it. This legislation would have transformed Maryland into a marijuana regulatory regime similar to that of Washington state or Colorado. While this bill received bipartisan support, it did not make it out of committee.

Medical Marijuana Besides decriminalization, legislators also expanded the state's medical marijuana program by passing SB 923 and HB 881. Under previous law, qualified patients could only obtain medical marijuana through a medical center that was approved by the state. Under the changes made in this session, these patients can also obtain medical marijuana from a state-licensed grower or dispensary.

Good Samaritan Law Tangentially related to drug laws, SB 476 and HB 416 provided immunity from prosecution for anyone who provides medical assistance to someone who is experiencing a medical emergency because of the use of alcohol or drugs. This "good Samaritan" law was sponsored to make it less risky to provide medical help to someone who is overdosing or having a similar medical emergency. By removing the threat of criminal prosecution, this law seeks to encourage people to provide aid to overdose victims.

Privacy Legislators passed a two pieces of legislation this session that increased Marylanders' privacy from law enforcement. SB 698 and HB 1161 require that law enforcement obtain a warrant if they want to track someone via an electronic device such as a cell phone. SB 924 and HB 912 mandate that law enforcement obtain a warrant to read the content of electronic communications such as e-mail or text messages. Prior to this legislation, if the content of this communication was over six months' old, law enforcement could access it if they deemed it relevant to an ongoing investigation. That was the standard set by the federal Electronic Communications Privacy Act, passed in 1986.[90]

EDUCATION

The major education policy initiative of this legislative session was the expansion of pre-kindergarten programs. Common Core implementation also received some attention, although legislation did little to address critics' concerns about this curriculum.

Pre-Kindergarten Expansion In 2002, legislation required that pre-kindergarten programs be provided to economically disadvantaged children. To qualify, these children must come from families with incomes below 185 percent of the federal poverty level (FPL). SB 332 raised the limit for children to qualify for pre-kindergarten. Under this legislation, children in families making at or below 300 percent of FPL could qualify for pre-kindergarten. These services will be expanded via state grants, as long as the General Assembly appropriates the necessary funds.

While expanded pre-kindergarten was a popular political issue in this session of the General Assembly, passing with a wide bipartisan majority, it may not produce any positive effect on Maryland children. As Grover J. Whitehurst of the Brookings Institution notes, "…the best available evidence raises serious doubts that a large public investment in the expansion of pre-k for four-year-olds will have the long-term effects that advocates tout."[91] This lack of evidence was of no concern to legislators, who embarked on a $4.3 million yearly expansion of pre-kindergarten programs.[92]

Common Core Around the country, the Common Core education standards have come under fire across the political spectrum. In Maryland, these standards have also proven controversial. The state's Maryland College and Career-Ready Standards is aligned with the Common Core, and it is in the process of being implemented. A variety of legislation was introduced in the General Assembly relating to this curriculum.

HB 76, for instance, would have prohibited the state from implementing curriculum aligned with the Common Core. HB 764 would have stopped the state's current implementation of its Maryland College and Career-Ready Standards. Instead, the legislation would have directed the state to return to its prior curriculum. Both these bills failed to pass the General Assembly.

Instead, legislators passed HB 1164, establishing the Maryland College and Career-Ready Standards and PARCC Implementation Review Workgroup. This workgroup is tasked to review how the new state standards are being implemented and recommend ways to streamline this implementation. Two other bills, SB 988 and HB 1388, require the state department of education to report on schools' technological capabilities to administer the online testing requirements of the new curriculum.

Prevailing Wage SB 232 and HB 727 expanded the requirement that counties using state funds for many school construction projects pay the "prevailing wage" for these projects. "Prevailing wage" is a state-mandated minimum rate of payment that is determined by the Commissioner of Labor and Industry.

Prior to this legislation, if the state paid at least 50 percent of certain school construction costs in a county, this county would be required to pay prevailing wage on all of its school construction projects. Ten counties fell outside this threshold. Under the legislation passed by this session of the General Assembly, the amount of state funding required to trigger the prevailing wage mandate is lowered to 25 percent.

With the passage of this legislation, all Maryland counties will be required to pay prevailing wage on school construction projects (unless counties dramatically reduce the amount of state aid they accept for school funding). The effect of this is almost certain to raise the cost of school construction. As DLS mentions in its fiscal note, there is conflicting evidence about how much prevailing wage increases construction costs. While some studies indicate it may not increase cost at all, most studies show at least a modest increase in costs.[93]

Ohio provides one interesting example of state action on prevailing wage. In 1997, the state repealed its prevailing wage law for school construction. In the five years after the enactment of this law, a state report found that it saved taxpayers an aggregate of 10.7 percent, and there was no decrease in construction quality.[94]

Health Mandates on School Systems The 2014 session continued the practice of imposing mandates on local boards of education regarding school health practices. HB 812 requires schools to have an automated external defibrillator (AED) on-site and personnel trained to use an AED to prevent cardiac arrest. SB 503 and HB 1366 require schools to train students in CPR and the use of an AED.

CONCLUSION

Overall, the 2014 session of the General Assembly was a dismal one for free markets, limited government, and civil society. While past sessions of the General Assembly passed important transparency legislation or pension reform, this session of the General Assembly enacted a budget bill that increased spending and the structural deficit, saddled Maryland's economy with a higher minimum wage, put the interests of unions ahead of the needs of taxpayers and school children by tightening up prevailing wage requirements, and passed an open-ended funding measure that fails to deal with the real problems of the state's Affordable Care Act rollout.

Legislators did pass some good legislation. Fixing some of the problems with the speed camera law, for instance, was much-needed. However, the overall effect of this legislative session was to exacerbate the state's fiscal irresponsibility and harm the state's economy. For those Free State residents who support limited government or the free market, the 2014 legislative session had little good news.

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