



## 2024 LEGISLATIVE WRAP-UP

April 12, 2024

To Our Valued Clients, Friends, and Colleagues:

As the 446<sup>th</sup> Session of the Maryland General Assembly came to a close on April 8, 2024, Harris Jones & Malone, LLC, would like to take this opportunity to share key highlights from the legislative activities over the past 90 days. While this synopsis is not exhaustive, it offers an overview of select topics of interest from the 2,711 bills and 14 Joint Resolutions introduced in 2024.

The table of contents in this document is interactive. If you would like to jump to a specific topic or issue, simply click that issue in the table of contents.

We appreciate the opportunity to serve as your trusted advisors for legal, lobbying, and government relations matters in the State of Maryland. Should you require further information on any of the topics covered or assistance with specific issues, please don't hesitate to contact us.

Thank you for your continued trust and partnership.

Sincerely,

The Harris Jones & Malone Team

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## **BUDGET OVERVIEW**

The focal point of the 2024 Legislative Session (the Session) of the Maryland General Assembly (MGA) revolved around passing a balanced budget for Fiscal Year 2025, amidst a \$400 million structural deficit. Governor Wes Moore (D) proposed a balanced budget with significant cuts to higher education and other state programs, building on previous transportation reductions announced in late 2023.

During the Session, the House of Delegates advocated for increasing state revenues, while Senate leadership opposed such measures. In March, the Senate passed a budget and Budget Reconciliation and Financing Act (BRFA) similar to the Governor's plan, with some restoration of cuts to the State's community college system. Meanwhile, the House considered various revenue-raising policies, eventually narrowing them down to combined reporting, I-gaming, and a transportation fee package, all of which were rolled into the BRFA.

After intense negotiations and conference committees, the Senate and House reached a compromise, incorporating transportation revenue measures at a reduced rate from the House's proposal and increased tobacco taxes for education funding. This compromise allowed the restoration of some budget cuts, particularly in child care, higher education, and the Transportation Trust Fund. The compromised budget passed in the final days of the Session and was hailed as a reasonable fiscal approach by both Senate and House leadership.

While transportation budget concerns were partially addressed, uncertainties persist regarding the long-term costs of education policies like the Blueprint for Maryland's Future. Future sessions may revisit revenue measures, including I-gaming, to address ongoing fiscal challenges.

## **TAXES**

### *Fair Share Act*

Senator Shelly Hettleman (D – Baltimore County) and Delegate Julie Palakovich Carr (D – Montgomery County) introduced Senate Bill 766/House Bill 1007, known as the Fair Share for Maryland Act of 2024. This comprehensive taxation bill aimed to enact several changes to Maryland's tax system. The key provisions included:

1. Decreasing the exclusion amount under the Maryland estate tax from \$5.0 million to \$2.0 million for decedents passing on or after January 1, 2025.
2. Instituting a sales factor "throwback" rule for Maryland corporate income apportionment starting in tax year 2026, in cases where property is delivered or shipped to a purchaser within the State or shipped from a place of storage in the State, and the corporation is not taxable in the purchaser's state.
3. Imposing an additional 1% income tax rate on specified net capital gains income, with various exclusions such as primary residences, retirement accounts, agricultural assets, and affordable housing owned by nonprofits.



4. Modifying the State's earned income credit and enhancing eligibility for the child tax credit, with changes effective from tax year 2027.
5. Establishing an additional tax rate of 8.25% on specified pass-through entity (PTE) income exceeding \$1 million, excluding sole proprietorships.
6. Adjusting individual income tax rates and brackets.
7. Requiring corporations engaged in a "unitary business" to compute Maryland taxable income using worldwide combined reporting.

While the bill did not receive an up or down vote in committee, pieces of the bill were folded into the BRFA discussed above under Budget.

### *Services Tax*

Delegate David Moon (D – Montgomery County) reintroduced legislation during the Session aimed at revising the State's sales and use tax structure. This contentious proposal sought to extend the State sales and use tax to all services, with specific exemptions, while reducing the general tax rate from 6% to 5% for taxable goods and services. The bill broadly defined taxable services as any buyer-paid activity, with exceptions such as educational, healthcare, and religious services, among others. However, the bill faced strong opposition from Maryland's business sector during its hearing in the House Ways and Means Committee and ultimately failed to advance.

### *Trauma Funding*

In response to efforts to strengthen funding for the Maryland Emergency Medical System Operations Fund, commonly known as the "Trauma Fund," several bills were introduced. Senate Bill 1065, sponsored by Senator Guy Guzzone (D – Howard County), initially proposed increasing the surcharge on the State's biannual vehicle registration fee, with a specific allocation to support trauma facilities, including the University of Maryland Medical System's shock trauma facility in Baltimore City. However, the bill underwent amendments and ultimately passed with adjustments mirroring those outlined in the BRFA. The final version of the bill incorporated a \$17 annual surcharge on vehicle registration fees, with \$14.50 designated for the Maryland Emergency Medical System Operations Fund. Additionally, \$2.50 of the surcharge was earmarked for the Maryland Trauma Physician Services Fund.

## **LABOR AND EMPLOYMENT**

### *PORT Act*

Senate President Bill Ferguson and Delegate Luke Clippinger (both D – Baltimore City) introduced the Maryland Protecting Opportunities and Regional Trade (PORT) Act (the Act) as an emergency legislative response to the closure of the Port of Baltimore resulting from the collapse of the Francis Scott Key Bridge. The preamble of the Act highlights the severity of the event,

noting its tragic loss of life and the significant economic impact of the Port of Baltimore's closure on the region and nation.

The Act mandates the Maryland Department of Labor (MDL) and the Maryland Department of Commerce (Commerce) to establish temporary relief programs to assist individuals and entities affected by the port closure. MDL is tasked with creating a program to provide assistance to individuals who (1) regularly worked at the Port of Baltimore, (2) are unable to work due to the closure, and (3) do not qualify for unemployment benefits or similar employer-provided benefits. Commerce, on the other hand, is required to establish programs to aid small businesses, trade associations, and companies impacted by the closure. These entities must demonstrate reliance on the Port of Baltimore operations and a commitment to continuing operations once the port reopens.

The Act allows the Governor to transfer funds from the Revenue Stabilization Account, also known as the Rainy Day Fund, to finance the temporary relief programs. Recipients of assistance under the temporary relief programs may be required to repay any monetary assistance if they receive compensation from other sources for the same purpose.

Finally, the Act establishes the Fallen Transportation Workers Scholarship Program, providing tuition assistance to dependents or surviving spouses of transportation workers who died in the line of duty. Eligible individuals must be accepted or enrolled in postsecondary education in Maryland, be residents of the State, and related to a fallen transportation worker. Scholarships cover tuition and mandatory fees at approved institutions, with award amounts subject to certain limits. Funding is allocated based on the number of eligible recipients attending each institution. The program operates through a special fund administered by the Maryland Higher Education Commission (MHEC), which includes appropriations, interest earnings, and other contributions. Additionally, efforts are made to collect information about eligible families from transportation agencies or contractors.

The Act is considered an emergency measure necessary for the immediate preservation of public health or safety. With a three-fifths majority vote in both houses of the MGA for passage, it takes effect immediately upon enactment.

### ***Pay Stubs – Required Information***

Senator Alonzo Washington (D – Prince George’s County) and Delegate Jeffrie Long (D – Calvert & Prince George’s Counties) introduced Senate Bill 38/House Bill 385, which mandates that employers provide written statements to each employee for every pay period, either on the physical pay stub or online statement. The statement must include various details such as the employer's name, address, and contact information, dates of payment and pay period, hours worked, rates of pay, gross and net pay, deductions, additional bases of pay (like bonuses or commissions), and piece rates of pay for piece-rate employees.

Under current law, Maryland's Wage Payment and Collection Law ensures employees are paid wages as promised, establishes regular paydays, and requires the provision of gross earnings statements and notification of pay rates and payday schedules. The law is enforced by MDL's

Division of Labor and Industry. Employers who violate this law may face misdemeanor charges and fines up to \$1,000.

The bill also stipulates that employers must inform new employees of their rate of pay, regular paydays, and leave benefits at the time of hiring. Changes to paydays or wages require advance notice to employees, but employers may increase wages without advance notice. The Commissioner may investigate violations of this law upon receiving written complaints from employees and can attempt informal resolution, seek legal action through the Attorney General's Office, or bring action directly in the county of the alleged violation.

The bill becomes effective October 1, 2024.

### *Earned Wage Access*

Senate Bill 998/House Bill 1425, introduced by Delegate Kathy Klausmeier (D – Baltimore County) and Delegate David Fraser Hildalgo (D – Montgomery County), defines "earned wage" as any income, including salary, wages, or compensation, earned through various means such as hourly work, project-based tasks, or independent contracting services. "Earned wage access" refers to the provision of an advance on earned wages that a consumer or employer acknowledges has been earned but not yet paid by the employer. Providers of earned wage access are restricted from charging specified fees, receiving interest from consumers, or using credit reports to qualify consumers for such advances.

Additionally, the bill outlines the concept of "tips" as voluntary payments made by consumers to lenders or third parties at the time of a transaction, solely at the consumer's discretion, and without affecting loan terms or future lending decisions. It includes any form of payment made for services rendered, expedited processing, or other purposes. Furthermore, the bill would have prohibited certain financial service providers, such as licensed check cashing providers, secondary mortgage loan providers, debt management service providers, and debt settlement service providers, from implying that tips will influence loan approval or terms. These providers would have had to disclose how tips are allocated and ensure that tips paid by consumers do not directly benefit specific individuals.

Recent developments indicate a rise in earned wage access services, often provided by third parties with associated fees or costs. Despite their popularity, these services may carry high costs, with annual percentage rates ranging from 100% to 400%, exceeding legal limits in Maryland's consumer lending laws. While some states have introduced legislation to regulate earned wage access products, there is no direct federal law addressing them. However, such products could be subject to federal Regulation Z, which covers consumer loan disclosures. The U.S. Consumer Financial Protection Bureau has recognized earned wage access products as loans and compared some to payday loans.

Maryland Consumer Loan Law applies to loans of \$25,000 or less for personal, family, or household purposes, capping interest rates at 33% for balances up to \$2,000 and 24% for higher balances. Certain exemptions exist for specific loan types and arrangements, such as loans between

employers and employees or those made by individuals engaged in occasional lending, not as a business.

In the end, the bills failed to advance beyond their initial bill hearings.

### *Family and Medical Leave Insurance Program Alterations*

Senator Antonio Hayes (D – Baltimore City) and Delegate Lily Qi (D – Montgomery County) jointly introduced Senate Bill 485/House Bill 571, which, in its amended form, alters the Family and Medical Leave Insurance (FAMLI) Program. The bill makes several modifications to the program's implementation timeline, including a nine-month delay for required contributions (starting July 1, 2025) and a six-month delay for benefit payments (beginning July 1, 2026). Furthermore, the bill authorizes the Secretary of Labor to establish a private employer plan, provided it adheres to reasonable criteria for determining which employers qualify to fulfill program requirements. Under this plan, employers are prohibited from deducting more than 50% of the contribution amount set by MDL. Finally, regarding enforcement, self-employed individuals failing to remit FAMLI contributions will now be subject to the same penalties as conventional employers. Consequently, employees or the MDL may submit written complaints to the Secretary of Labor's designee, who will conduct investigations and impose civil penalties, to be paid by the employer or insurer, when warranted.

The bill becomes effective on October 1, 2024.

### *Employment Discrimination - Use of Cannabis Products*

Senate Bill 513/House Bill 525 would have established regulations regarding the employment rights of individuals who legally use cannabis. Under the bill, employees could not face adverse employment action for using cannabis products legally during non-work hours, as long as the use did not impair their actual job performance. The bill defined “adverse employment actions” as refusing to hire, firing, forcing retirement, or discriminatory practices related to compensation or job terms. Furthermore, employers would have been prohibited from taking adverse employment actions based solely on a positive drug test for cannabis unless it was proven that the employee was impaired during work hours or on the premises. Employers were still permitted to prohibit on-the-job cannabis use and take action if an employee displayed impairment that affected their work performance. In addition, employers were not required to violate federal law or risk losing federal contracts or funding to accommodate state cannabis laws. The bill sponsors, Senator Alonzo Washington (D – Prince George’s County) and Delegate Jheanelle Wilkins (D – Montgomery County), were unable to advance the bill beyond their initial hearings.

### *Predictable Scheduling*

Senator Joanne Benson (D – Prince George’s County) and Delegate Linda Foley (D – Montgomery County) reintroduced Senate Bill 994/House Bill 1226, known as the Maryland Predictable Scheduling Act, building on previous iterations of the bill. This legislation targeted employers in the food service, hospitality, and retail sectors with at least 500 employees or who operate as franchisees. The bill would have mandated that such employers compensate employees at fifty

percent of their regular rate of pay for scheduled work hours that are canceled or reduced after the work schedule has been provided or after the employee reports to work. Additionally, the bill would have granted employees the right to decline additional hours. However, if those employees had opted to work extra hours, they would have had to have been provided with a written agreement and received compensation at the greater of time and a half or four hours of regular pay. Although the bill received a hearing, it did not progress beyond the jurisdictional committees.

### ***Civil and Criminal Penalties Involving Workplace Fraud and Prevailing Wage***

Senator Dawn Gile (D – Anne Arundel County) and Delegate Adrian Boafu (D – Prince George’s County) introduced Senate Bill 436/House Bill 465, which, as introduced, would have established that employers who violate the workplace fraud or prevailing wage statutes are guilty of a misdemeanor and upon conviction are subject to both a fine not to exceed \$5,000 and imprisonment not exceeding 60 days for each employee. The bill was ultimately amended to remove the criminal penalties in favor of increasing the maximum civil penalties for violations of the statute. Additionally, the bill allows for a referral to certain administrative and law enforcement agencies when it is shown that a violation occurred.

The bill takes effect October 1, 2024.

### ***Unemployment Insurance – Work Requirements***

Senator Kathy Klausmeier (D – Baltimore County) and Delegate Chris Adams (R – Caroline, Dorchester, Talbot, & Wicomico Counties) introduced Senate Bill 846/House Bill 998, which compels MDL to deliver a report to the MGA by December 1, 2024, that examines unemployment insurance work requirements across various states, highlighting the differences from Maryland’s standards. Moreover, MDL’s study will assess how other states verify work requirements to ensure claimants remain eligible for unemployment insurance benefits. MDL will also scrutinize whether it, utilizing existing resources, can perform periodic verifications of information provided by unemployment insurance claimants to meet the “actively seeking work” requirement. Furthermore, MDL’s report will evaluate why Maryland’s online system for claimants and employers cannot enable employers to input information regarding a claimant’s actively seeking work requirement, including confirmation of contact with an employer for work. It will explore the feasibility of removing certain personal information requirements for employers in the online system and investigate other relevant factors, such as addressing instances where claimants fail to attend scheduled job interviews or maintain contact with employers afterward.

The study begins when the law takes effect on July 1, 2024.

### ***Noncompete & Conflict of Interest Clauses – Health Care and Veterinary Professionals***

Senator J.B. Jennings (R – Baltimore & Harford Counties) and Delegate Terri Hill (D – Howard County) sponsored Senate Bill 1182/House Bill 1388 that expands the application of provisions of current law stating that a noncompete or conflict of interest provision in an employment contract is null and void under state law to an employment contract for an employee that is required to be licensed under the Health Occupations Article or as a veterinary practitioner or veterinary

technician. Regardless of whether the employer and employee signed an employment contract or similar agreement in the state, the provision is unenforceable. The provision does not apply to a contract of employment or any other agreement or document that deals with the acquisition or use of a client list or other confidential client data.

Although the Senate cross-file of this bill was introduced late in the Session and failed to move out of the Senate Rules Committee, the House bill successfully passed and takes effect on June 1, 2024.

## **BUSINESS REGULATION**

### *Maryland Railway Safety Act*

Senator Arthur Ellis (D – Charles County) and Delegate Dana Stein (D – Baltimore County) introduced the Maryland Railway Safety Act of 2024, which broadly focused on safety around freight train operations in the state. The bill built upon the perennial proposal of requiring freight railroad operations to have a minimum crew size of two individuals. Willful violation of this provision could have resulted in a civil penalty of up to \$10,000. The responsibility for any breaches of this provision would have lied solely with the railroad company, holding it accountable for the actions of its agents or employees.

From there, the bill sought to do the following:

- Regulate the transportation of hazardous materials and waste by rail. The bill would have established a database containing relevant information about the transportation of hazardous materials through the state, which must be shared with the Maryland Department of Emergency Management and the Federal Emergency Management Agency.
- Mandate the installation, maintenance, and operation of wayside detector systems, which are electronic devices tasked with scanning passing trains, rolling stock, and on-track equipment for defects. Each railroad company responsible for a track designated as Class IV or greater by the Federal Railroad Administration would have had to adhere to guidelines and regulations set forth by the U.S. Department of Transportation for the installation, maintenance, repair, and operation of these systems.
- Limit train length to an arbitrary 8,500 feet.
- Limit blocked crossings to 5 minutes.

In the end, the bill did not progress beyond the Senate or the House due to significant concerns about its potential impact on the State's Transportation Trust Fund, the Port of Baltimore, private freight terminal investment at Tradepoint Atlantic, and the investments made in upgrading the Seagirt Marine Terminal and the Howard Street Tunnel.



### ***Backup Generating Stations***

Senate Bill 474/House Bill 579 entitled - Critical Infrastructure Streamlining Act of 2024 was an Administration bill that simply defined “back-up generating station” and exempts them from the requirements of the Certificate of Public Need and Convenience process. This bill codified the existing approval process in place for backup generators, maintaining the important environmental protections already in place that are a part of the Maryland Department of Environment (MDE) air permitting process. While this bill impacts any entity that requires backup generators in excess of two megawatts, it is especially important for the burgeoning data center industry in the State.

The bill passed in the final days of the Session and will become effective July 1, 2024.

### ***Confinement of Egg-Laying Hens***

Senator Karen Lewis Young (D – Frederick County) and Delegate Jen Terrasa (D – Howard County) introduced legislation to ban the confinement of egg-laying hens in non-cage-free housing systems, effective from calendar year 2026 onwards. Senate Bill 193/House Bill 357 also proposed a mandate for farm owners or operators to acquire a certificate of compliance and prohibited the sale of shell eggs or egg products that violate this prohibition. However, despite their good intentions, both bills failed to advance beyond their initial public hearing.

## **WORKFORCE DEVELOPMENT**

### ***Prince George’s County Economic Development Workgroup***

The Prince George’s County Delegation introduced House Bill 306, establishing the Workgroup on Independent Innovation in Prince George’s County, which will be administered by the Maryland Technology Development Corporation (TEDCO). The bill mandates the workgroup to analyze and provide recommendations concerning a Prince George’s County Entrepreneurs-in-Residence program within TEDCO, strategies to foster investments in industry opportunities and potential innovation sectors, and to foster collaborations with TEDCO and other stakeholders to cultivate partnerships and strategies aimed at positioning Prince George’s County as a hub for entrepreneurs and technology start-up companies. The workgroup, which includes representatives from entities such as the Prince George’s County Chamber of Commerce and Employ Prince George’s, Inc., is tasked with this mission.

The bill will take effect on October 1, 2024, and will remain in effect for two years until September 30, 2026.

### ***Growing Apprenticeships & the Public Safety Workforce (GAPS) Act***

Governor Wes Moore (D) introduced Senate Bill 470/House Bill 597, which rebrands the Law Enforcement Cadet Apprenticeship Program in MDL as the Public Safety Apprenticeship Program. The legislation extends eligibility beyond law enforcement agencies to encompass various public safety entities. Participating agencies are mandated to create registered apprenticeship programs facilitating career pathways within the public safety sector. The bill

empowers MDL to grant start-up funds up to \$200,000 and stabilization grants up to \$5,000. Moreover, the bill compels the Maryland Police Training and Standards Commission to devise mental health wellness policies for implementation in law enforcement agencies and correctional facilities, alongside an annual report submission. Additionally, the legislation establishes the Workgroup on Growing Engagement in the Law Enforcement and Corrections Workforce. This group is tasked with scrutinizing workforce shortages in law enforcement and corrections, exploring effective recruitment and retention strategies, and recommending incentives to boost workforce numbers.

The bill becomes law on June 1, 2024.

### *Apprenticeship Ratios*

Senator Alonzo Washington and Delegate Adrian Boafó (both D – Prince George’s County) introduced legislation initially proposing a three-to-one apprenticeship ratio for certain non-traditional apprentices under MDL. However, amendments in both chambers shifted the focus of Senate Bill 511/House Bill 650 to a reporting requirement. The amended bill now mandates MDL to deliver a report to the MGA by October 1, 2024. The report must encompass various aspects, including the total number of apprentices and employer-participated apprentices in nontraditional apprenticeships in the previous fiscal year, an analysis of nontraditional apprenticeship occupations that could sustain a mentorship ratio exceeding one-to-one without jeopardizing workplace safety, a compilation of apprenticeship ratio waiver requests received by the Maryland Apprenticeship and Training Council in the past five years, and recommendations to streamline apprenticeship ratio expansion for newly registered nontraditional apprenticeship occupations, aligning with the goals of the Apprenticeship 2030 Commission.

The bill becomes effective on June 1, 2024.

### *Talent Innovation Program and Fund*

House Bill 1128 is a MDL bill that will establish the Talent Innovation Program (TIP) within the department. Under the bill, TIP is empowered to conduct pilot programs, engage stakeholders, and undertake research to develop and bolster innovative talent financing approaches, which may encompass models like a "pay-it-forward" revolving-door funding mechanism, pay-for-performance initiatives, or financing to bolster training programs such as registered apprenticeships for high-demand occupations. Additionally, the bill initiates an inaugural pilot program with a focus on the cybersecurity sector, aiming to bolster job training through the expansion of regional cyber ranges. Finally, the bill establishes the TIP Fund, earmarked specifically for providing grants to entities covering costs, subsidized wages, administrative expenses, and training.

House Bill 1128 takes effect on July 1, 2024.



## WORKERS' COMPENSATION

### *CAPES Act*

In partnership with Maryland firefighters, Governor Wes Moore (D) introduced and passed Senate Bill 476/House Bill 584, the “Caring for Public Employees in the Safety Professions” or CAPES Act, which establishes an additional occupational disease presumption for specified public safety employees, generally firefighters, who contract thyroid, colon or ovarian cancer that is caused by contact with a toxic encountered in the line of duty.

The bill passed both chambers with near unanimous numbers and becomes effective October 1, 2024.

### *Hearing Loss*

Senator Kathy Klausmeier (D – Baltimore County) and Delegate Andrew Pruski (D – Anne Arundel County) reintroduced legislation aimed at modifying how hearing loss is addressed within the State’s workers’ compensation system. Senate Bill 843/House Bill 669, passed by both chambers of the MGA, introduces changes to the calculation and determination of occupational deafness and hearing loss for workers’ compensation benefits. These changes include:

1. Requiring hearing loss to be calculated at an additional frequency when determining occupational deafness.
2. Specifying that employers must provide compensation to covered employees for hearing loss resulting from industrial noise in the additional frequency, except under specified circumstances.
3. Altering the calculation method for age-related nonoccupational deafness.

The original bill also contained provisions regarding the consideration of Tinnitus, but this language was removed before the bill's passage. The legislation is set to take effect on October 1, 2024.

### *Failure to Pay*

Senate Bill 216, a departmental bill introduced at the request of the Uninsured Employers’ Fund (UEF) was passed to increase the maximum penalty that an employer may be required to pay to the UEF when the Workers’ Compensation Commission (WCC) finds that the employer failed to secure compensation for all covered employees or failed to comply with an order from WCC to secure and maintain insurance for all covered employees and submit proof of that coverage to WCC. In both cases, the bill establishes a penalty of up to \$25,000, an increase of \$15,000 over the current maximum penalty of \$10,000.

The bill takes effect July 1, 2024.

### *Hypertension*

Senator Kathy Klausmeier (D – Baltimore County), along with Delegate Mike Rogers (D-Anne Arundel County), reintroduced Senate Bill 844/House Bill 1145 aimed at expanding workers' compensation occupational disease presumption for specific public safety employees, primarily firefighters, with hypertension. The bill specifies that an employee is considered to have demonstrated disablement from hypertension, a requirement for receiving compensation benefits, if the employee:

1. Receives three blood pressure readings indicating hypertension, as defined in the fourth edition of the American Medical Association Guides.
2. Has been prescribed medication to treat hypertension.

While the legislation underwent workgroup discussions in the Senate Finance Committee, it failed to progress beyond initial public hearings during the Session.

### *Social Workers*

Senator Klausmeier, in collaboration with Delegate Susan McComas (R – Harford County), introduced Senate Bill 931/House Bill 1285. This legislation aimed to authorize licensed social workers to register with the WCC (Workers' Compensation Commission) as rehabilitation practitioners, enabling them to provide rehabilitation services under workers' compensation law.

The bill proposed the following key provisions:

1. It exempted licensed social workers and licensed certified social worker-clinicals from the existing education and experience qualifications required for registration as vocational evaluators, a specific type of rehabilitation practitioner.
2. It empowered licensed certified social worker-clinicals to conduct evaluations of the mental or behavioral portion of a permanent impairment, particularly if the workers' compensation claim involves a behavioral or mental disorder.
3. It mandated the WCC to grant a waiver of education and training requirements to applicants licensed as rehabilitation practitioners before the bill's effective date.

While the House Bill received a favorable vote, it failed to progress in the Senate Finance Committee.

### *Post-Traumatic Stress Disorder*

Senator Cheryl Kagan (D – Montgomery County) and Delegate Terri Hill (D – Howard County) reintroduced legislation to establish a workers compensation presumption for post-traumatic stress disorder (PTSD) under certain circumstances. In previous years the legislation applied specifically to 9-1-1 specialists. This Session, however, Senate Bill 1069/House Bill 190 would have established an occupational disease presumption for a “first responder,” meaning a (1) firefighter;

(2) emergency medical services provider; (3) rescue squad member; (4) sworn member of the Office of the State Fire Marshal; (5) member of a volunteer fire or rescue company who is a covered employee under workers' compensation law; (6) a 9-1-1 specialist; (7) a law enforcement officer; or (8) a correctional officer. To qualify for the presumption, a first responder must (1) be diagnosed with PTSD by a licensed psychologist or psychiatrist; (2) have completed at least two years of cumulative service within the State as a first responder; and (3) file a claim while employed as a first responder or within 18 months immediately following employment as a first responder. The presumption does not limit any other workers' compensation right an individual may have or claim an individual may bring. The House Bill was referred for interim study to determine whether there is a need for a presumption for PTSD claims and how broadly it should apply.

## **CONSUMER PROTECTION**

### *Statute of Limitations Local Consumer Protection Codes*

Under current law, prosecutions for misdemeanors and civil suits for fines, penalties, or forfeitures must typically be initiated within one year after the offense was committed. House Bill 549 sought to extend the statute of limitations for prosecuting or enforcing local consumer protection codes from one year to three years. The statute would have begun to toll when local authorities knew or reasonably should have known of the violation. Delegate Elizabeth Embry (D – Baltimore City) was able to navigate the bill through the House with unanimous support, but the bill stalled in the Senate after its bill hearing.

### *Automatic Renewals*

Senate Bill 1040/House Bill 1049, introduced by Senator Dawn Gile and Delegate Andrew Pruski (both D – Anne Arundel County), would have established stringent regulations governing automatic renewal offers to consumers. Under the bill, sellers would have had to present the terms of automatic renewal offers clearly and conspicuously before the agreement is fulfilled. This would have included disclosing the price after the initial term ends and any changes to the subscription or purchasing agreement. Consumers would have had to also been provided with easily accessible methods to cancel automatic renewals without delay or hindrance. This includes offering toll-free telephone numbers, email addresses, postal addresses, or other widely available mechanisms. The bill would have also required that offers, including free gifts or trials, include clear explanations of post-trial pricing and how the subscription or purchasing agreement will change after the trial period ends. For online offers, the bill mandated that consumers be provided with cost-effective means to cancel, such as prominently located links or buttons within their account settings or via an immediately accessible termination email provided by the seller. In addition, sellers would have been required to provide timely notice before renewal or trial end, varying from 3 to 45 days. The bill also prohibited sellers from automatically charging a consumer's credit card without providing clear and conspicuous notice. Sellers would have been required to comply with state or federal regulatory contract renewal procedures that are considered in compliance with this bill's requirements.

The stated purpose of the bill was aimed at protecting consumers from deceptive or unfair practices related to automatic renewal offers, ensuring transparency, accessibility, and consumer choice in subscription-based transactions. While the House bill passed its chamber almost unanimously, the Senate did not give either bill an up or down vote.

### *Gift Cards*

Senator Ben Kramer and Delegate Vaughn Stewart (Both D – Montgomery County) presented and passed Senate Bill 760/House Bill 896, the Gift Card Scams Prevention Act of 2024, which establishes numerous rules and procedures that merchants must follow when selling “open-loop” or “closed-loop” gift cards in the state. These measures aim to regulate the sale and resale of gift cards to prevent fraud and protect consumers. By establishing clear guidelines for merchants and third-party resellers and providing mechanisms for law enforcement to investigate potential theft cases, the bill seeks to enhance consumer trust in the gift card market.

The bill defines the following:

1. Open-loop gift card: a card, code, or device issued to consumers for personal use, branded by a payment card network, and redeemable at multiple unaffiliated merchants or ATMs within the payment card network.
2. Closed-loop gift card: a card, code, or device issued to consumers for personal use, redeemable at a single merchant or group of affiliated merchants.
3. Third-party gift card reseller: a merchant engaged in buying or reselling open- or closed-loop gift cards without authorization or affiliation with the issuing business entity.

The bill then imposes numerous restrictions on the sale of gift cards. Merchants must conspicuously display notices when selling gift cards, either physically or online. Open-loop gift cards must be enclosed in secure packaging to prevent tampering. Closed-loop gift cards must be presented in packaging that conceals redemption codes and includes tampering warnings. Exceptions are made for chip-enabled, numberless cards activated by consumers or gift cards sold exclusively for use at the merchant's establishment. In addition, merchants must provide training to employees on identifying and responding to gift card fraud, based on guidelines established by the Office of the Attorney General (OAG).

Third-party gift card resellers must record and maintain transaction information for at least three years. Records must be open to inspection by law enforcement and must not be tampered with or destroyed. Resellers are prohibited from refusing inspection by law enforcement or failing to maintain transaction records. Law enforcement agencies can request gift card issuers to preserve and provide relevant evidence in cases of reported theft exceeding \$500.

After much debate and buy in from the Maryland Retailers Alliance, the bill passed on the final day of Session and becomes law June 1, 2025.

### *Taskforce to Study E-Commerce Monopolies*

House Bill 53, introduced by Delegate Chao Wu (D – Howard County), proposed the creation of a task force to investigate e-commerce businesses with annual revenues exceeding \$10 billion, operating within the state and selling both first- and third-party products on their online platforms. The task force would have been tasked with reviewing the data policies of these businesses, including consumer data security and sales practices. Additionally, the task force would be asked to explore whether these businesses hold a monopoly within the state's e-commerce industry, engage in practices resembling copying and selling products from third-party sellers, unfairly prioritize their own products over third-party products, and negatively impact small businesses, creating unfair competition. Finally, the task force was also mandated to identify the ownership and country of origin of the parent companies of the aforementioned e-commerce businesses. While the bill passed the House of Delegates, it met new resistance in the Senate, particularly from retailers and Attorney General Anthony Brown (D), himself. The bill ultimately did not receive a vote from the Senate Finance Committee.

### *True Lender Act*

The Commissioner of Financial Regulation in MDL introduced House Bill 254, which outlined various prohibitions aimed at curbing deceptive practices in credit transactions governed by Title 12 of the Commercial Law Article. These include restrictions on loan structures and interest rates exceeding those authorized by state law. Under the bill, loans made in violation of these provisions would be rendered void and unenforceable. It further sought to clarify the criteria for identifying entities subject to Title 12 regulations, defining lenders based on factors such as economic interest, marketing activities, and transaction structuring. The bill emphasizes a holistic assessment of circumstances to determine the true lender in a transaction, aiming to prevent evasion of state lending laws.

Background information provided with the bill highlighted the historical context of interest rate exportation, wherein banks from other states or national banks are not subject to Maryland's interest rate caps. This practice has facilitated partnerships between banks and nonbank lenders, particularly fintech companies, leading to predatory lending practices harmful to Maryland consumers. The bill drew its inspiration from similar legislation in Maine, seeking to establish a statutory framework for identifying the true lender in rent-a-charter arrangements, thereby subjecting fintech companies to Maryland's interest rate regulations and consumer protections. This statutory solution aligns Maryland with other states combating predatory lending and aims to reduce the prevalence of high-interest loans marketed to Maryland residents.

Ultimately, the House Economic Matters Committee took no action on the bill, and it died.

### *Credit Regulation*

Senator Clarence Lam (D - Baltimore & Howard Counties) and Delegate Julie Palakovich-Carr (D – Montgomery County) collaborated to sponsor Senate Bill 41/House Bill 262, which successfully passed through the legislative process. This bill aimed to amend existing statutory provisions that typically restrict a consumer reporting agency from including specific information

in a consumer credit report, with certain exceptions. Notably, the legislation raised the exemption thresholds applicable when a consumer credit report is used for specific credit transactions, life insurance underwriting, or employment determinations.

The bill garnered unanimous support without opposition and will become effective on October 1, 2024.

Similarly, Delegate Anne Healey (D – Prince George’s County) introduced House Bill 622 to address concerns regarding the inclusion of certain criminal records in consumer reports by consumer reporting agencies. This bill prohibits such agencies from including records of a criminal proceeding in a consumer report if the consumer was falsely accused, acquitted, or exonerated, or if the proceeding did not result in a guilty verdict or plea. Additionally, any criminal records concerning the consumer that have been expunged must not be included in the consumer report.

The bill received some scrutiny during the Senate hearing regarding potential pre-emption by federal regulations. However, after the OAG refuted these concerns, the bill passed along party lines and is set to take effect on October 1, 2024.

### ***Sales-Based Financing***

Senator Ben Kramer, along with Delegate David Fraser-Hidalgo (both D – Montgomery County), once again introduced Senate Bill 509/House Bill 574 to establish a regulatory framework for businesses that engage in commercial financing transactions. Specifically, the bill establishes requirements related to disclosures, annual percentage rate calculations, repayment terms, and other related items, as well as the extension of special offers. The Office of Financial Regulation within MDL must adopt regulations to implement the bill. For the fifth year in a row, the House failed to take favorable action on the bill and it died on *Sine Die*. Senator Kramer is expected to reintroduce similar legislation in the 2025 Legislative Session.

### ***Artificial Intelligence – Use by Public Agencies***

Senate Bill 818/House Bill 1271, sponsored by Senator Katie Fry Hester (D – Howard & Montgomery Counties) and Delegate Jazz Lewis (D – Prince George’s County), establishes comprehensive policies and procedures for state agencies regarding the utilization of artificial intelligence (AI), particularly high-risk AI applications. Amended during the legislative process, the legislation:

1. Expands the roles and responsibilities of the Secretary of Information Technology and the Maryland Department of Information Technology (DoIT) concerning the procurement and utilization of AI by state agencies, including the formulation of AI policies and procedures.
2. Mandates public senior higher education institutions to devise policies and procedures governing the development, procurement, and application of AI.
3. Requires units of state government to conduct data inventories, identify systems utilizing AI, and conduct impact assessments of AI-enabled data systems.

4. Authorizes and outlines a process for "proof-of-concept" procurements related to AI.
5. Formalizes the AI Subcabinet within the Governor's Executive Council and assigns it specific responsibilities.
6. Directs the AI Subcabinet to formulate an AI roadmap and deliver a designated report.

The bill unanimously passed and is slated to become effective on July 1, 2024.

## **DATA PRIVACY AND PROTECTION**

### *Online Data Privacy Act*

For the last five legislative sessions, the MGA has contemplated comprehensive regulation for the collection, sale, and use of online data. After years of consideration and analysis of similar legislation passed in other states, this Session, Senate Bill 541/House Bill 567, sponsored by Senator Dawn Gile (D – Anne Arundel County) and Delegate Sara Love (D – Montgomery County) and titled the Maryland Online Data Privacy Act of 2024, was passed as a top priority of both presiding officers.

As amended, the legislation creates and implements the following consumer protections for Marylanders by:

- Requiring a controller of data to establish a secure and reliable method for a consumer to exercise a right;
- Establishing a timeframe and related requirements for a controller to respond to and/or comply with a request from a consumer;
- Requiring the controller to notify the consumer in a specified manner if the controller chooses not to take action on a request;
- Requiring a controller to provide a consumer, free of charge, with the information a consumer requests, subject to certain limitations; and
- Requiring a controller to establish a process that a consumer may use to appeal a controller decision.

The legislation also establishes numerous rules, procedures, and prohibitions related to the activities of data controllers and processes by:

- Requiring a controller to limit the collection of personal data to what is reasonably necessary and proportionate to provide or maintain a specific product or service requested by the consumer to whom the data pertains;



- Requiring a controller to provide an effective mechanism for a consumer to revoke the consumer's consent and to stop processing the data no later than 15 days after the receipt of the request;
- Prohibiting discrimination against any consumer for exercising a right granted by the bill, as specified;
- Requiring a controller to disclose specified information when it sells personal data to third parties or processes personal data for targeted advertising;
- Requiring a controller to provide a consumer with a reasonably accessible, clear, and meaningful privacy notice that includes specified information about the controller's data processing practices and information about how a consumer can exercise a right granted by the bill;
- Requiring a controller and processor to enter into a contract that includes specified requirements if a controller uses a processor to process the personal data of consumers;
- Defining the responsibilities of both the controller and processor in the event that such a contract is entered into; and
- Establishing more stringent procedures and requirements for processing activities that present heightened risk of harm to a consumer (e.g., the processing of sensitive data)

After significant discussion and substantial amendments to ensure that impacted business entities are able to comply practically, the legislation passed late in the Session, with a delayed effective date of October 1, 2025.

### *Children's Online Privacy*

Senator Ben Kramer and Delegate Jared Solomon (both D – Montgomery County) reintroduced Senate Bill 571/House Bill 603, known as the Maryland Kids Code, to establish consumer protections for children online. The legislation requires any "covered entity" offering an online product likely to be accessed by children to conduct a "data protection impact assessment" of the product. The bill outlines various rules, procedures, and prohibitions regarding these assessments. It imposes civil penalties of up to \$2,500 per affected child for each negligent violation and \$7,500 per affected child for each intentional violation by a covered entity. The data protection impact assessment is deemed confidential and exempt from public disclosure under the Maryland Public Information Act. Violations of the bill constitute unfair, abusive, or deceptive trade practices under the Maryland Consumer Protection Act (MCPA), with corresponding civil and criminal penalties, excluding specific penalty provisions applicable to merchants.



Following two years of review and amendments aimed at clarifying and aligning provisions with state and federal standards, the legislation unanimously passed the MGA . It is scheduled to take effect on October 1, 2024.

## ENVIRONMENT

### *Manufacturing – Emission Reduction Regulations*

House Bill 990, sponsored by Delegate Dana Stein (D – Baltimore County) was introduced to implement one of the recommendations of the Maryland Climate Commission’s Climate Pollution Reduction Plan released in December 2023. In keeping with that recommendation, the bill makes state greenhouse gas (GHG) emissions reduction requirements apply to the production of cement by altering the definition of “manufacturing” for purposes of the Greenhouse Gas Emissions Reduction Act (GGRA). The bill also alters provisions related to the regulation of GHG emissions reductions by other manufacturers under the GGRA. First, provisions limiting GHG emissions reductions and cost increases are modified to apply only to persons who engaged in manufacturing in 2023. Second, limitations on sector-wide GHG emissions reductions and cost increases for manufacturing are narrowed to limitations on specific manufacturers and their GHG emissions and costs in 2023.

Amendments were added to the bill to require MDE to make specified considerations and consult with specified stakeholders related to the regulation of the production of cement, including:

- The extent to which cement manufacturing is an energy-intensive and trade-exposed industry;
- Credit for early action investments made by cement producers to reduce emissions;
- The adoption of policies that encourage, facilitate, and offer financial incentives for the use of alternative fuel sources;
- The availability and cost of mature GHG abatement technologies; and
- Advancing policies that provide financial incentives to offset the costs of installing and transitioning to GHG emissions abatement technologies.

In considering the feasibility of regulation and the topics listed above, MDE must consult with impacted cement producers and other stakeholders. The Senate adopted amendments to apply similar considerations for manufacturers of materials or technologies used to reduce GHG.

The amended bill passed on *Sine Die* and takes effect October 1, 2024.

### *Protecting State Waters from PFAS Pollution Act*

Senate Bill 956/House Bill 1153 primarily aims to address the presence of PFAS (perfluoralkyl and polyfluoroalkyl substances) in industrial wastewater discharges into Maryland's state waters. Concern exists around PFAS chemicals, referred to as “forever chemicals,” because they do not break down in the environment, many of which are toxic, and some bio-accumulate in the food chain and, therefore, in humans. Overall, the bill sets forth comprehensive measures to address PFAS pollution in Maryland's state waters, outlining responsibilities for significant industrial users, aligning with existing laws and regulations, and incorporating recent federal guidance on PFAS management. The specifics of the bill are outlined below.

The bill, introduced by Senator Katie Fry Hester (D – Howard County) and Delegate Sara Love (D – Montgomery County), establishes key definitions such as "significant industrial user" (an industrial entity subject to certain criteria regarding wastewater discharge), "pretreatment permit" (authorization to introduce industrial wastes into a POTW - Publicly Owned Treatment Works), and "PFAS chemicals" (fluorinated organic chemicals with at least one fully fluorinated carbon atom).

The bill applies to significant industrial users who are currently and intentionally using PFAS and hold a pretreatment permit. It mandates the development of mitigation plans by significant industrial users to reduce PFAS presence in their industrial discharge. These plans should include strategies like substituting or eliminating PFAS-containing products, taking precautions to prevent accidental discharges, decontaminating equipment, or using other methods determined necessary by MDE for PFAS reduction.

Affected significant industrial users must measure PFAS levels in their industrial wastewater by a specified date and report these levels to MDE. They must also implement measures to reduce PFAS in their wastewater discharge by a given deadline. Additionally, these users must safely store captured PFAS and dispose of them using approved methods, as disposal at solid waste landfills, incineration, or land application is prohibited. Documentation of PFAS storage or disposal must be provided upon request to relevant government entities.

The bill aligns with existing federal Clean Water Act regulations and Maryland's water pollution control laws, particularly regarding NPDES permits, pretreatment requirements, and enforcement provisions. It also references Maryland's PFAS Action Plan, which addresses strategies to minimize PFAS releases into the environment.

The bill becomes effective July 1, 2024.

### *Electronic Devices Recycling*

Senator Malcolm Augustine (D – Prince George's County) and Delegate Dana Stein (D – Baltimore County), through Senate Bill 686/House Bill 830, aimed to overhaul regulations pertaining to Covered Electronic Devices (CEDs) in the State, encompassing sales, registration, and recycling. The bill proposed modifying the definition of a CED to include Tier I (e.g., monitors, TVs) and Tier II (e.g., laptops, cell phones) devices while excluding certain electronic

devices from the definition, such as those found in motor vehicles or household appliances. Under the bill, consumers would have been subject to fees on CEDs starting at \$10 for Tier I CEDs and \$5 for Tier II CEDs. The bill also proposed removing requirements for manufacturers to establish CED takeback programs and modified the CED registration fees, setting them at \$10,000 for manufacturers selling at least 1,000 CEDs and \$5,000 for those selling 100 to 999 CEDs. These fees were previously tied to the existence of takeback programs.

Instead of paying those registration fees into the State Recycling Trust Fund (SRTF), the bills proposed channeling them into a new CED manufacturer registration fee account alongside a freshly created CED recycling account funded by consumer fees. This redirection of fees would have underpinned the CED Recycling Program (CEDRP), overseen by MDE, to facilitate CED collection, recycling, refurbishment, or reuse of CEDs in the State. Moreover, the legislation would have established an advisory council to advise MDE on CEDRP implementation, fee amounts, and related matters, with required findings and recommendations reported to MDE annually.

Finally, the legislation would have then eliminated provisions allowing counties to address CED collection and recycling methods, as well as grants from the SRTF for local government recycling programs. MDE would have been mandated to disburse funds from the CED recycling account to authorized recyclers and collectors, covering their costs. Recyclers and collectors were not permitted to charge consumers for dropping off CEDs but were permitted to charge manufacturers.

Although neither bill advanced beyond its initial legislative chamber, the persistent challenge of CED disposal implies the likelihood of similar measures emerging in subsequent legislative sessions.

### *Postconsumer Recycled Content*

Delegate Jen Terrasa (D – Howard County) reintroduced House Bill 168, which would have established the Postconsumer Recycled Content Program in Maryland, overseen by MDE. The bill would have established regulations for postconsumer recycled content in Maryland, defining terms such as "covered product" and "postconsumer recycled material. Under the bill, minimum postconsumer content requirements were set for beverage and food containers, household cleaning, and personal care products, with phased implementation. House Bill 168 would have then required producers of covered plastic products to register annually with the MDE and pay fees based on product category sales, with penalties for non-compliance. Ultimately, the bill failed to advance out of the House Environment and Transportation Committee.

### *Environmental Justice Evaluation of Environmental Permit Applications*

Senator Michael Jackson (D – Calvert, Charles & Prince George's Counties) and Delegate Regina Boyce (D – Baltimore City) jointly sponsored Senate Bill 96/House Bill 24, which perennially appears before the MGA. This bill, as amended, would have mandated MDE to conduct an additional Environmental Justice (EJ) evaluation for permit applications (excluding general permit applications) if the initial EJ score, evaluated pursuant to § 1-601(a) of the Environmental Article, exceeds the 75th percentile statewide. Furthermore, the bill would have empowered MDE to refuse a permit or impose conditions addressing EJ concerns if evidence indicates that the permit would

significantly impact the health of adjacent communities. In cases where an applicant seeks multiple permits for the same facility, MDE would have had the discretion to conduct only one additional EJ evaluation, unless multiple evaluations are warranted.

Additionally, the bill would have mandated MDE to maintain a publicly accessible website or application providing information on pending permits. MDE was authorized to levy a reasonable fee to cover the costs associated with implementing the aforementioned provisions, encompassing expenses such as technical assistance to permit applicants and residents of relevant census tracts.

Moreover, MDE would have also been obliged to engage specified stakeholders when formulating regulations and to explore avenues for enhancing outreach efforts and notifications to underserved and overburdened communities, particularly concerning public participation processes for tentative permit determinations.

Though House Bill 24 made it to the Senate in an amended form, the Senate Education, Energy, and Environment Committee did not take a vote on either version of the bill.

### ***MDE Fees, Penalties, Funding, and Regulation***

House Bill 245 is a departmental bill aimed at augmenting various fees and penalties that bolster programs and special funds within MDE. As amended, this bill would have granted MDE authority to:

1. Revise the state's regulatory framework pertaining to dams and establish a related special fund;
2. Impose fees associated with on-site sewage disposal system permits and individual well construction permits;
3. Institute a fee for processing and issuing training certification for personnel engaged in on-site clearing and grading operations or sediment control linked to construction projects;
4. Introduce additional application fees for activities proposed in Tier II High Quality Watersheds, with explicit authorization to adjust fees for inflation without requiring legislative enactment;
5. Raise the per-barrel oil transfer fee, increase the Wetlands and Waterways Program fee (by approximately 30%), elevate registration fees for rental dwelling units paid by property owners, adjust the application fee for the Voluntary Cleanup Program, and augment surface mining license and permit fees; and
6. Increase registration fees for rental dwelling units paid by owners of affected properties under the Reduction of Lead Risk in Housing Subtitle that support the Lead Poisoning Prevention Fund.

The bill easily passed the House, but failed to pass in the Senate before midnight on *Sine Die*.

### *Climate Crisis Initiative*

Delegate Diana Fennell (D – Prince George’s County) reintroduced legislation from the 2021 and 2022 sessions aimed at establishing the Climate Crisis Initiative within MDE. House Bill 516, as amended, sets forth the following objectives:

1. Assessment of GHG pollution fees;
2. Provision of benefits to households and employers in the State to mitigate the impact of these fees; and
3. Allocation of funds for activities targeting GHG emissions reduction, sequestration, resilience enhancement, and the facilitation of a just economic transition.

The bill imposes a fee on all fossil fuels imported into the state, calculated based on their relevant carbon dioxide equivalent emissions, and subject to specified requirements. The revenue generated from these fees will be divided equally between two MDE special funds, (1) the Household and Employer Benefit Fund, and (2) the Climate Crisis Infrastructure Fund. The latter will also receive any remaining unspent benefits from the former fund.

The Household and Employer Benefit Fund aims to safeguard low- and moderate-income households and energy-intensive, trade-exposed employers in Maryland. Meanwhile, the Climate Crisis Infrastructure Fund is intended to finance initiatives promoting clean energy, resilience, and the overall well-being of Marylanders. Additionally, it will prioritize investments in projects situated in and providing substantial benefits to disproportionately affected communities.

The collection of the fee is slated to commence upon the adoption of all necessary rules for its implementation, no later than January 1, 2026, unless the fee's enactment is deferred to a calendar year beyond 2025. In such a scenario, the Secretary of the Environment is mandated to delay the fee schedule by the corresponding number of years.

The bill ultimately failed to advance beyond its initial hearing.

### *Clean Water Justice Act*

Senator Malcolm Augustine (D – Prince George’s County) and Delegate Sara Love (D – Montgomery County) introduced and passed Senate Bill 653/House Bill 1101, which seeks to address and rectify pollution, destruction, or significant impairment to the public health, water quality, and natural resources of Maryland. As amended, this bill outlines procedures for individuals meeting federal standing thresholds to initiate or intervene in specific civil actions against individuals or entities alleged to be violating standards concerning nontidal wetlands and discharge of pollutants.

Specifically, individuals may take action if the violation involves nontidal wetlands lacking continuous surface connection to water bodies or if the violation affects hydrologically connected ephemeral or intermittent streams. Before commencing a civil action, individuals must provide a 60-day notice to the Secretary of the Environment, the Attorney General, the local jurisdiction of

the violation, and the alleged violator. However, individuals are barred from initiating an action if the Secretary has already begun and is actively prosecuting a civil action, or if a consent order for compliance has been issued.

Furthermore, any civil action must be filed in a circuit court within the county where the violation occurred. If a violation is established, the court is empowered to enforce standards and provide temporary or permanent equitable relief, which may include imposing civil penalties or awarding litigation costs to the prevailing party in accordance with applicable statutory guidelines.

The bill takes effect October 1, 2024.

### ***Wasted Food Reduction and Diversion Fund & Grant Programs***

Delegate Regina Boyce (D- Baltimore City) introduced House Bill 1318 which, as amended, would have established a Wasted Food Reduction and Diversion Grant Program administered by MDE and an On-Farm Organics Diversion and Recycling Grant Program administered by the Maryland Department of Agriculture (MDA). The Wasted Food Reduction and Diversion Grant Program's purpose is to award grants annually for infrastructure, programs, and education that reduce, rescue, and divert wasted food in the State. The On-Farm Organics Diversion and Recycling Grant Program's purpose is to award grants annually for developing and implementing on-farm organics recycling and compost use, wasted food prevention, as well as food rescue. If an eligible recipient receives a grant from either program, they may not receive a grant under the other program in the same calendar year.

Additionally, this bill establishes a Wasted Food Reduction and Diversion Fund, also administered by MDE, that provides the funding for these two new grant programs which will commence on July 1, 2026. The fund, supplemental to existing funding appropriated for these programs, will consist of money appropriated in the State budget, interest earnings, and any other money from any source accepted for the benefit of the fund. Lastly, the Maryland State Department of Education (MSDE) will continue to administer the existing Grant Program to Reduce and Compost School Waste for fiscal year 2027, only, which is set to terminate on June 30, 2027. The bill easily navigated the House, but failed for lack of action in the Senate.

### ***Environmental Justice Districts***

Senator Mary Washington (D – Baltimore City and Baltimore County) introduced Senate Bill 1086, which would have empowered residents of local jurisdictions or communities facing environmental burdens to petition MDE for the designation of an "environmental justice district." This bill broadens the definition of "environmental justice" to encompass significant participation in the development, enforcement, implementation, and permitting of all state and environmental laws and regulations.

To qualify for designation, areas would have had to meet specific criteria, including a history of environmental degradation, proximity to traffic, residents with an average life expectancy below 64 years, or high rates of asthma or heart disease among residents. However, even if an area did



not meet these criteria, MDE would have retained the authority to evaluate and designate it as an environmental justice district.

MDE would have been mandated to publish the process and criteria for applying for designation on their website by December 1, 2024, and then update the designated districts biannually by April 1, 2025. Additionally, within 60 days of receiving a permit application, MDE would have had to announce an in-person public hearing and allow interested individuals to submit information orally or in writing.

When assessing the outcome of public hearings, MDE would have been prohibited from approving permit applications that would directly or indirectly increase pollution in the designated district. Subsequently, MDE would have had to ensure permit and regulatory compliance, conduct inspections, and take enforcement action as necessary.

Finally, state agencies were directed to prioritize funding for pollution mitigation and other environmental hazard alleviation in environmental justice districts.

The bill did not advance beyond its initial hearing.

### ***Fossil Fuel Transport***

In a bid to create new revenue sources for Maryland, Delegate Dana Stein (D – Baltimore County) presented House Bill 1008, known as the Climate Pollution Reduction Fund Act. This bill was inspired by a recommendation from the Maryland Climate Commission’s Climate Pollution Reduction Plan, which was released in late 2023. House Bill 1008 would have levied a fee of 30 cents per million British thermal units (BTUs) on specific fossil fuels transported within the State. The fee would typically be imposed on the initial carrier responsible for transporting the fossil fuel within Maryland, with exemptions for certain fuels that have already incurred a fee.

Under the proposed legislation, the Fossil Fuel Mitigation Fund would be established within MDE. This fund would support initiatives aimed at reducing greenhouse gas emissions from fossil fuels and their associated impacts in the State. Proceeds from the fossil fuel transportation fee would be deposited into the mitigation fund, with a portion allocated for administrative expenses (up to 5%) and the rest dedicated to programmatic purposes. Although several amendments were considered during the initial hearing in the House Environment and Transportation Committee to address concerns about the bill's impact, ultimately, it failed to advance and was shelved due to inaction.

## **HEALTH CARE**

### ***End-of-Life Option Act***

With renewed optimism, and assurance from Governor Wes Moore (D) that he would sign the bill if sent to his desk, advocates of aid-in-dying reintroduced Senate Bill 443/House Bill 403, aiming to legalize the option for terminally ill individuals in the State to request and obtain self-administered medication from a licensed attending physician to bring about their death. The bill

sponsors were Senator Jeff Waldstreicher (D – Montgomery County) and Delegate Terri Hill (D – Howard County), who is also a physician.

The bill defines "aid-in-dying" as the medical practice where a physician prescribes medication to a qualified individual to end their life. A "qualified individual" must be an adult resident of the State with a terminal illness and the capacity to self-administer medication. The process involves an initial oral request followed by a written one, signed by the individual and two witnesses, with specific rules on witness eligibility. Moreover, there are mandatory waiting periods between requests, with at least one required to be made privately with the attending physician.

Following the request, the attending physician must verify the individual's eligibility, ensure informed decision-making, and confirm voluntariness. Proof of residency can be established through various means, including official documentation or the physician's knowledge. The physician must also provide comprehensive information about the individual's medical condition, prognosis, risks, alternatives, and available treatments. Additionally, consultation with a second physician is required to validate the diagnosis and prognosis, with a mental health assessment mandated if necessary.

Upon approval, the attending physician may dispense the prescribed medication or facilitate its dispensation by a pharmacist with the individual's consent. Ancillary medications for comfort may also be provided as needed.

Stringent documentation requirements are outlined, with records pertaining to aid-in-dying exempt from subpoena or discovery except under specified regulations. Legal safeguards protect individuals and healthcare providers acting in good faith from civil, criminal, and professional repercussions. The bill explicitly states that aid-in-dying is distinct from suicide or euthanasia and has no impact on insurance policies or contracts.

Finally, healthcare facilities retain the right to establish their policies on aid-in-dying participation, with physicians maintaining the freedom to opt-out. Penalties are imposed for any falsification, coercion, or destruction of aid-in-dying requests.

After vigorous debate on legal and moral grounds, neither chamber was able to move the bill beyond its initial hearing.

### ***Prior Authorization***

“Utilization review” is a process in which a patient's care plan undergoes evaluation, typically for inpatient services on a case-by-case basis. The review determines the medical necessity of procedures and might make recommendations for alternative care or treatment. Senator Kathy Klausmeier (D – Baltimore County) and Delegate Bonnie Cullison (D – Montgomery County) introduced Senate Bill 791/House Bill 932 to reshape prior authorization processes for medical services and pharmaceuticals. The bill, which takes effect on January 1, 2025, applies to insurers, nonprofit health service plans, and health maintenance organizations (HMOs) providing prescription drug coverage. Managed care organizations defined in Health – General Article § 15–101 are exempt.



Under the bill, carriers are required by July 1, 2026, to establish and maintain an online system that integrates with e-prescribing and electronic health record systems. This system should streamline electronic prior authorization requests and provide real-time information on patient out-of-pocket costs and alternative medications. Carriers are prohibited from charging fees for accessing this online process and from accessing healthcare provider data without consent. Healthcare providers must ensure their electronic systems can access carrier-established prior authorization processes and real-time patient cost information by the same deadline.

In addition, the bill requires carriers to allow healthcare providers to indicate if the drug is for treating a chronic condition when prior authorization is requested for prescription drugs prescribed for a mental disorder or an immune globulin (human). If indicated, the entity cannot request reauthorization for a repeat prescription for one year or the standard course of treatment, whichever is less. Furthermore, the bill mandates detailed written explanations for denial of coverage, including whether it was based on prior authorization requirements. In addition, entities must honor prior authorizations granted by the previous insurer for at least 90 days or the length of the course of treatment, whichever is less, upon receipt of documentation. Entities can conduct their own review during this period. The bill further specifies conditions where prior authorizations must be honored even with changes in health benefit plans or dosage changes. It also exempts certain opioid dosage changes from prior authorization requirements. Finally, the bill requires entities to notify insured individuals and healthcare providers at least 60 days before implementing new prior authorization requirements.

### *Assisted Outpatient Treatment*

The Maryland Department of Health (MDH) introduced Senate Bill 453/House Bill 576 to establish Assisted Outpatient Treatment (AOT) programs aimed at providing specific outpatient treatment for individuals with serious and persistent mental illnesses who are court-ordered to adhere to the regimen. Under these programs, a multidisciplinary care coordination team, supervised by a local behavioral health authority or core service agency, oversees the development and implementation of treatment plans. These plans include crucial outpatient services deemed essential for maintaining the individual's health and safety. Such services typically include those provided by a treating psychiatrist, case management, certified peer recovery specialists, and assertive community treatment services when clinically appropriate.

Counties are granted the authority to establish their own AOT programs, and they may choose to partner with other counties for this purpose. If a county opts not to establish such a program, the responsibility falls on MDH to establish one.

Petitions for AOT may be filed by the director of a mental health program receiving state funding or by any individual at least 18 years old who has a legitimate interest in the respondent's welfare. These petitions must be supported by an affidavit from a psychiatrist affirming the respondent's eligibility for AOT.

AOT may be ordered by the court if clear and convincing evidence demonstrates the respondent's eligibility based on specific criteria. These criteria include the presence of a serious and persistent

mental illness, a history of nonadherence to treatment leading to significant hospitalization or violent behavior, and the necessity of AOT to prevent harm to the individual or others. Throughout the process, respondents have the right to legal representation and may voluntarily agree to the treatment plan developed by the care coordination team. The team is responsible for ensuring that the treatment plan is recovery-oriented and consistent with evidence-based practices. The court oversees hearings where evidence, including testimony from psychiatrists, is presented. If ordered, the respondent must comply with the AOT plan, and failure to do so does not result in contempt of court.

Reports on AOT programs' effectiveness and outcomes are to be submitted annually to the MGA. Counties must notify MDH of their intention to establish AOT programs by January 1, 2025, with the law taking effect on July 1, 2024, except for specific provisions effective July 1, 2025.

### *nPEP*

This departmental bill, Senate Bill 246/House Bill 127, establishes a Nonoccupational Postexposure Prophylaxis (nPEP) Standing Order Program. “nPEP” is medication used to reduce the risk of HIV after potential exposure. The program authorizes registered pharmacists to dispense nPEP through a standing order, meaning without a prescription, following approved procedures by MDH with State Board of Pharmacy (MBOP) advice. MDH may collect fees, administer the program, establish guidelines for pharmacist education, and collect data on program operations. Pharmacists can dispense nPEP if registered with the program. They must screen patients for recent HIV exposure, assess clinical criteria per CDC guidelines, and dispense nPEP accordingly. Referral to a disease intervention specialist and notification to the patient's primary care provider are also required. Pharmacists must refer patients to a primary care provider if a standing order isn't suitable. Dispensing nPEP can also occur through drug therapy management contracts.

The bill becomes effective October 1, 2024.

### *Student Telehealth Appointments*

Senate Bill 492/House Bill 522, introduced by Senator Cheryl Kagan (D – Montgomery County) and Delegate Dana Jones (D – Anne Arundel County), provides detailed guidelines and regulations concerning telehealth services in Maryland schools. The bill defines “telehealth” as the use of telecommunications technologies by healthcare practitioners to provide services to patients at different physical locations. According to the bill, each middle and high school must designate a private space for student telehealth appointments. This space must be private, have internet access, include at least one seating option with a flat surface and nearby electrical outlet to accommodate a laptop, and importantly, it must not be a bathroom or closet. Moreover, the bill mandates that schools implement measures to ensure the safety and privacy of students participating in telehealth appointments. The bill does not mandate schools to construct new spaces to comply with these requirements nor does it change the responsibilities of healthcare providers regarding the disclosure of medical records under current law, especially in emergency situations.

The bill becomes effective July 1, 2024.

### *Annual Behavioral Health Wellness Visits*

Senate Bill 124/House Bill 400 would have mandated health insurers, nonprofit health service plans, health maintenance organizations and Medicaid managed care organizations (MCOs) to offer coverage for an annual "behavioral health wellness visit." This coverage is required regardless of whether a behavioral health diagnosis is made during the assessment. Reimbursement for these visits must be provided at the same rate as assessments, resulting in a behavioral health diagnosis. A "behavioral health wellness visit" was defined under the bill as a clinical encounter where a healthcare practitioner assesses whether a patient meets the criteria for a psychiatric or substance use disorder. The sponsors of the bill, Senator Malcolm Augustine and Delegate Jamila Woods (both D - Prince George's County), were unable to advance their legislative proposal beyond its initial bill hearing.

### *Coaches Mental Health Training*

Senate Bill 165/House Bill 201 mandates mental health training for coaches in all public schools and institutions of higher education in Maryland that offer athletic programs. MSDE and MHEC will collaborate with the MDH, local boards of education, and the Maryland Public Secondary Schools Athletic Association to develop guidelines for recognizing mental illness and behavioral distress indicators, including depression, trauma, violence, youth suicide, and substance abuse. For elementary and secondary schools, an "athletic program" refers to intramural, interscholastic, or other school-sponsored athletic programs meeting State Board of Education criteria. For higher education institutions, it includes any intercollegiate athletic program.

The bill, sponsored by Senator Shelly Hettleman (D – Baltimore County) and Delegate Dalya Attar (D – Baltimore City), becomes effective on July 1, 2024.

### *Health Care Provider Out-of-Network Information Act*

Attorney General Anthony Brown (D) introduced the Health Care Provider Out-of-Network Information Act, Senate Bill 1104 and House Bill 1148, respectively. The bill would have required out-of-network healthcare facilities in Maryland to provide certain information to consumers and obtain their consent before providing healthcare services. Key provisions included:

1. Mandating out-of-network healthcare facilities to inform consumers about their out-of-network status and the potential for higher out-of-pocket costs.
2. Requiring written estimates of costs for services from out-of-network facilities, except in specific circumstances.
3. Obtaining signed consent from consumers before providing health care services.
4. Specifying the format and content of the notice, estimate, and consent form to be provided to consumers.
5. Prohibiting out-of-network facilities from charging consumers an amount exceeding their in-network cost share without proper notice and consent.

6. Declaring violations of the act as unfair, abusive, or deceptive trade practices under Maryland's Consumer Protection Act; and
7. Stipulating that the act does not preclude individuals from pursuing other legal remedies.

Attorney General Anthony Brown (D) ultimately withdrew the bill to work with stakeholders during the interim on the issue.

### *Destruction of Medical Records*

Delegates Jesse Pippy (R – Frederick County) introduced House Bill 149, Medical Records-Destruction-Notice and Retrieval. This bill, after amendments, mandates that healthcare providers refrain from destroying a patient's medical record, laboratory report, or x-ray report for seven years after its creation. The bill also specifies protocols for communication between healthcare providers and patients before the destruction of medical records, allowing patients time to retrieve their records if desired.

With smooth passage through both chambers, this bill is scheduled to become effective on October 1, 2024.

### *Prescription Drug Affordability Board – Expanded Authority*

In 2020, Maryland enacted legislation to establish the Prescription Drug Affordability Board (PDAB), initially limiting its authority to implement upper payment limits (UPLs) solely for drugs procured through state-funded healthcare programs. However, this year, responding to health advocates' calls, Senator Dawn Gile (D – Anne Arundel County) and Delegate Bonnie Cullison (D – Montgomery County) introduced Senate Bill 388/House Bill 340 to repeal existing reporting requirements for PDAB regarding UPLs. Under the proposed legislation, PDAB, on or after October 1, 2024, must evaluate whether setting UPLs for all prescription drug purchases and payor reimbursements statewide would be beneficial. If deemed advantageous, PDAB is mandated to establish a structured process for determining UPLs and subsequently implement them. For fiscal 2025 and each subsequent year, the Governor must allocate a minimum of \$1.0 million to the PDAB in the annual budget bill. The bill outlines the allocation sequence for PDAB funds and includes provisions for unutilized appropriations to revert to the General Fund. With contentious hearings in both chambers, the bill failed to advance due to inaction by either chamber.

### *Medically Integrated Dispensing of Specialty Drugs – Coverage*

The Senate Finance and House Health and Government Operations Committees pursued the establishment of limited healthcare coverage for medically integrated dispensing of specialty drugs in specific community practice settings within Maryland. Senator Clarence Lam (D – Baltimore & Howard Counties) and Delegate Steve Johnson (D – Harford County) reintroduced Senate Bill 526/House Bill 876, aiming to prohibit pharmacy benefits managers (PBMs) from mandating beneficiaries to utilize specific pharmacies for certain specialty drugs. Under the proposed legislation, PBMs working on behalf of carriers are prohibited from enforcing pharmacy restrictions if the specialty drug is prescribed by a physician, used to treat chronic, complex, rare, or life-threatening conditions, and administered through injection, infusion, or under specific oral

conditions. Moreover, PBMs must reimburse pharmacies or pharmacists for these specialty drugs at rates not lower than what they reimburse themselves or affiliates for the same drugs. While House Bill 876 passed unanimously with amendments in the House, narrowing coverage to physicians offering oncology services and limiting reimbursement to negotiated rates with specialty pharmacies, the Senate sponsor expressed concerns about clinical and financial limitations impacting patients. Consequently, the Senate opted not to advance the legislation further. Similar measures are expected to be favorably considered in the 2025 legislative session.

### *340B Drugs*

Senator Clarence Lam (D – Baltimore & Howard Counties) and Delegate Pam Guzzone (D – Howard County) introduced Senate Bill 986/House Bill 1056 on behalf of the State’s hospitals and federally qualified health centers (FQHCs) to impose certain restrictions on pharmaceutical manufacturers participating in the federal 340B drug discount program in Maryland. Amended and passed, the bill prohibits a “340B manufacturer” from directly or indirectly impeding the acquisition or delivery of a “340B drug” to a pharmacy on behalf of a “covered entity,” with specified exceptions. Violations constitute unfair, abusive, or deceptive trade practices under the MCPA and are subject to enforcement actions and penalties. Alleged violations are investigated by the Consumer Protection Division of the OAG or the MBOP as applicable. The legislation requires PDAB to conduct a study of the 340B Program by July 1, 2026, and report findings and recommendations to specified MGA committees.

Despite heavy opposition from manufacturers, the bill passed late in the Session and becomes effective July 1, 2024. Future consideration of repealing or modifying the policy may hinge on the results of mandated reports or subsequent federal 340B program reforms.

### *Medicaid Pharmacy Reimbursement*

Senator Alonzo Washington (D – Prince George’s County) and Delegate Steve Johnson (D – Harford County) reintroduced legislation to address the disparity in Medicaid reimbursement rates for pharmacists between the State’s fee-for-service program and managed care. This issue was highlighted in a MDH study conducted during the 2023 interim, which noted the discrepancy but did not offer policy recommendations.

Senate Bill 1021/House Bill 880 aimed to establish parity by requiring Medicaid to set minimum reimbursement levels for drug products with generic equivalents. Reimbursement rates would be based on the National Average Drug Acquisition Cost (NADAC) plus the fee-for-service (FFS) professional dispensing fee for generic drugs, and similarly for brand-name drugs if specifically prescribed. Exceptions were made for pharmacies affiliated with PBMs or mail-order pharmacies. PBMs contracting with pharmacies on behalf of MCOs would also be subject to the NADAC plus FFS professional dispensing fee reimbursement standard. While the bill sought to address this disparity, concerns about its fiscal impact on the State led to its failure to advance.

### ***PBM Regulation – Expansion to ERISA***

The MGA revisited legislation aimed at regulating PBMs providing benefits under health plans governed by the federal Employee Retirement Income Security Act (ERISA). Sponsored by Senator Justin Ready (R – Carroll County) and Delegate Nic Kipke (R – Anne Arundel County), Senate Bill 626/House Bill 726 sought to expand the application of certain protections and requirements to PBMs operating within ERISA plans.

The bill proposed to amend the definition of "purchaser" to encompass insurers, nonprofit health service plans, and HMOs, with an exception, under Maryland law governing PBMs. It aimed to extend various statutory requirements to all entities offering prescription drug coverage or benefits in the State, including those subject to ERISA. These included provisions related to:

- information on and sales of prescription drugs (§ 15-1611);
- choice of pharmacy by a beneficiary (§ 15-1611.1);
- reimbursement for a pharmaceutical product or pharmacist service (§ 15-1612);
- requirements before entering into a contract (§ 15-1623);
- rebate sharing contract requirements (§ 15-1624);
- audits by PBMs (§ 15-1629); and
- internal review process requirements (§ 15-1630).

Although the bill garnered unanimous support in the House, with backing from patients, pharmacists, and the OAG's Consumer Protection Division, it failed to advance in the Senate Finance Committee for the second consecutive year. As a result, it did not proceed to a vote and ultimately died due to inaction.

### ***Special Pediatric Hospitals***

Delegate Sandy Rosenberg (D – Baltimore City) proposed House Bill 1376 to mandate insurers, nonprofit health service plans, and health maintenance organizations (carriers) to offer coverage for a "special administrative day" at a "special pediatric hospital" under certain circumstances. This coverage would apply if a patient is eligible for discharge but lacks a safe environment for transfer. Under the bill, if a special pediatric hospital provides both an "administrative day" and "ancillary services," carriers must reimburse for the combined services at the same rate and terms. Commencing July 1, 2025, Medicaid would be required to extend the same coverage as carriers under this legislation. Moreover, carriers, Medicaid, and the Maryland Children's Health Program (MCHP) would be prohibited from demanding prior authorization for a transfer to a special pediatric hospital. Additionally, the bill sought to modify specific appeals rights for Medicaid



enrollees. Despite its introduction, the bill failed to progress beyond its initial hearing in the House Health and Government Operations Committee.

### ***Dental Offices – Infection Control***

Senator Kathy Klausmeier (D – Baltimore County) and Delegate Heather Bagnall (D – Anne Arundel County) sponsored Senate Bill 335/House Bill 499, which, following amendments, mandates each owner of a private dental office to appoint a licensed dentist as the supervising dentist for the office. The supervising dentist must have completed the registration required by the State Board of Dental Examiners (BDE) and assume responsibility for all "infection control activities" within the office. "Infection control activities" encompass structural infection control or infection control measures affecting the entire private dental office, as determined by BDE in regulation. This includes adherence to the U.S. Centers for Disease Control and Prevention Guidelines for Infection Control in Dental Health-Care Settings or successor guidelines, water quality testing, and spore testing. Additionally, the bill clarifies that "practice dentistry" does not include the duties of a supervising dentist. Amendments were made to address concerns raised during public hearings regarding potential unintended consequences for dental practices utilizing dental support organizations and serving significant Medicaid populations.

The bill passed unanimously late in the Session and takes effect October 1, 2024.

### ***Higher Education - Maryland Dent-Care Program - Eligibility***

Senate Bill 334/ House Bill 393 was introduced by Senator Kathy Klausmeier (D – Baltimore County) and Delegate Heather Bagnall (D – Anne Arundel County) to include dental hygienists and part-time dentists in the Maryland Dent-Care Program and authorizes MHEC's Office of Student Financial Assistance with MDH to establish prorated loan repayment assistance for those participating in the program. The bill adds in clarifying language that obtaining a general or limited license from BDE to practice dentistry in Maryland is a prerequisite to qualify for the program. Although the House successfully passed the bill prior to the crossover deadline, the Senate Finance Committee opted to not take action on the bill based on concerns that the expansion overburdened funding available for the program.

### ***Maternal Health Act***

Senator Arthur Ellis (D – Charles County) and Delegate Jennifer Holland White (D – Baltimore County), along with the Legislative Black Caucus of Maryland and the Women Legislators of Maryland, introduced and successfully passed Senate Bill 1059/House Bill 1051, entitled the Maryland Maternal Health Act of 2024. The legislation, as amended, codifies the existing requirement for providers reimbursed by Medicaid for obstetric services to complete a "prenatal risk assessment form" for patients and submit it to the local health department (LHD). Additionally, birthing facilities where infants are born must complete a postpartum infant and maternal referral form, submit it to the LHD, and provide birthing parents with specified resources, information, and follow-up procedures. Each birthing facility is also mandated to participate in the Severe Maternal Morbidity (SMM) Surveillance and Review Program. The SMM Surveillance

and Review Program is required to report specific findings and recommendations to the MGA by December 1, 2025.

The bill takes effect July 1, 2024.

### *Co-Pay Accumulator and Prescription Drug Rebates*

Senator Steve Hershey (R – Kent, Queen Anne’s, Cecil & Caroline Counties) and Delegate Steve Johnson (D – Harford County) introduced legislation aimed at enhancing transparency and fairness within health insurance and PBM practices. Their bill mandated that when determining an enrollee's or beneficiary's share of cost obligations, health insurers and PBMs must account for any payments made by or on behalf of the individual, with exceptions outlined. The bill expressly prohibited administrators, carriers, or PBMs from adjusting coverage terms based on information regarding financial or product assistance for prescription drugs. Furthermore, the proposal stipulated a yearly cap on cost-sharing for all healthcare services covered under a health benefit plan provided by an administrator or carrier in the State. Although the measure garnered substantial support from drug manufacturers and patients eager to access direct-to-patient cost savings, disagreement over amendments from the health insurance sector hindered its progress, leading to its demise on *Sine Die*.

Similarly, Senator Alonzo Washington and Delegate Ashanti Martinez (both D – Prince George’s County) sponsored Senate Bill 1019/House Bill 1270, which aimed to reform the practices of insurers and PBMs acting on behalf of carriers. The legislation required the calculation of an enrollee's cost-sharing for prescription drugs to be based on the drug's list price reduced by a minimum of 85% of the estimated total rebates expected by the carrier or PBM. This calculation was to occur at the point of sale, ensuring transparency and fairness in pricing. Additionally, the bill prohibited carriers or their representatives from disclosing actual rebate information publicly. It empowered the Insurance Commissioner to levy civil penalties of up to \$10,000 per violation, providing enforcement teeth to the proposed reforms. However, both bills stalled after initial hearings, as the committees focused primarily on a broader accumulator bill.

## **HEALTH OCCUPATIONS**

### *Pharmacist Vaccinations*

Under current law, pharmacists are permitted to administer vaccinations under certain conditions. Pharmacists can administer influenza vaccinations to individuals aged 9 and above, following regulations set by MBOP in consultation with MDH. Pharmacists can administer CDC-recommended vaccinations for individuals aged 11 to 17 with a prescription from an authorized prescriber. For adults, pharmacists can administer CDC-recommended vaccinations or those listed in Health Information for International Travel under a written protocol meeting specific criteria established by MDH. Between July 1, 2021, and June 30, 2023, pharmacists were additionally authorized to administer vaccines to individuals aged 3 to 17 if certain conditions were met, including completing a practical training program, having CPR certification, undergoing continuing education, maintaining proper records, and informing patients and caregivers about well-child visits.



Senator Malcolm Augustin (D – Prince George’s County) and Delegate Leslie Lopez (D – Montgomery County) introduced emergency legislation that revokes the temporary authorization in favor of permanent authorization. The bill repeals these provisions and allows pharmacists to order and administer vaccines to individuals aged 3 and above if the vaccine is for influenza, COVID-19, or for use during a public health emergency. Pharmacists must fulfill the same requirements previously mandated for administering vaccines to children aged 3 to 17, including training, CPR certification, continuing education, recordkeeping, and patient education about well-child visits. Furthermore, the bill permits pharmacists meeting the training, CPR, and education criteria to administer vaccinations recommended by the CDC’s Advisory Committee on Immunization Practices to individuals aged 7 and above, as well as those approved or authorized by the FDA. Additionally, pharmacists meeting training, CPR, and education requirements can administer CDC-recommended vaccinations for international travel to adults.

The bill becomes effective upon enactment.

### *Physician Assistants*

Senate Bill 167/House Bill 806, introduced by Senator Mary Beth Carozza (R – Somerset, Worcester, & Wicomico Counties) and Delegate Ken Kerr (D – Frederick County), proposes significant changes to the licensure, practice, and regulation of Physician Assistants (PAs) in Maryland.

The bill changes the education requirements for obtaining a PA license. Applicants must now have completed an educational program accredited by the Accreditation Review Commission on Education for the Physician Assistant or, if completed before 2001, accredited by the Committee on Allied Health Education and Accreditation or the Commission on Accreditation of Allied Health Education Programs. Additionally, applicants must pass the Physician Assistant National Certifying Examination administered by the National Commission on Certification of Physician Assistants.

The bill replaces delegation agreements with collaboration agreements between PAs and individual physicians or groups of physicians. These agreements outline the collaboration between the PA and the physician(s) and must be approved by the Maryland Board of Physicians (MBP). Collaboration agreements define the communication and decision-making process among healthcare providers related to patient treatment and care. PAs may practice only after providing notice to MBP of the executed collaboration agreement and maintaining a copy at the practice setting. MBP can audit and review collaboration agreements, and a patient care team physician may not delegate medical acts to more than eight PAs at one time. Collaboration agreements can be modified or terminated by MBP or the PA under certain conditions.

PAs are defined as individuals licensed by MBP to practice under the collaboration agreement. They may not practice independently but can delegate duties to unlicensed individuals under certain conditions. Patient services provided by PAs include obtaining health histories, physical examinations, diagnosing and managing medical treatment, interpreting patient data, prescribing medication, providing consultations, and more. PAs may not perform medical acts beyond their

license, education, training, or that are not customary to the practice of the patient care team physicians listed in the collaboration agreement. PAs can only perform advanced duties after obtaining MBP approval through collaboration agreements. Documentation of authority for advanced duties must be maintained at the facility. MBP can modify the performance of advanced duties based on recommendations from the Physician Assistant Advisory Committee. Finally, PAs can prescribe, dispense, and administer controlled dangerous substances under collaboration agreements with specific attestations and conditions.

MBP can take disciplinary actions against PAs or patient care team physicians who practice inconsistently with requirements. Penalties may include reprimand, probation, suspension, or revocation of license. Furthermore, PAs are included in the definition of "healthcare provider" for health care malpractice claims.

The bill becomes effective on October 1, 2024.

### *Safe Staffing Act*

Senator Alonzo Washington (D – Prince George’s County) and Delegate Jennifer White Holland (D – Baltimore County) introduced Senate Bill 1020/House Bill 1194, titled the Safe Staffing Act of 2024. This legislation would have mandated that every hospital, excluding state hospitals, establish and maintain a clinical staffing committee with equal representation from management and employees by January 1, 2025. Furthermore, these committees would have been required to develop a clinical staffing plan by July 1, 2025, based on the patient population of the hospital. This plan must include guidelines, ratios, matrices, or grids indicating the appropriate number of patients assigned per registered nurse (RN), as well as the necessary staffing levels for other roles such as licensed practical nurses, certified nursing assistants, certified medicine technicians, environmental service workers, and ancillary members of the direct care team for each unit. Each staffing committee must conduct an annual review of their staffing plan by July 1<sup>st</sup> of each year and make updates as needed. Additionally, hospital administrators would have been obligated to provide annual training, either conducted by staff or a contracted third party, to all patient care staff members to ensure their comprehension of the patient’s bill of rights.

Though the House bill passed, both bills died for a lack of action in the Senate Finance Committee.

### *Health Occupation Licenses – Reciprocity*

Senate Bill 221/ House Bill 146 is a departmental bill introduced by request of MDH to allow any health occupations board the authority to adopt regulations that establish reciprocity for individuals who hold a license or certification in another state and that provide a comparable level of reciprocity for those who hold a board license or certification, provided that the board does not otherwise have the statutory authority to do so. These regulations must also require that an applicant submit a specified application on the required form, pay an application fee set by the board, be in good standing under the law of the other state, and satisfy any other requirements established in law or regulation.

This bill passed unanimously out of the Senate and House and takes effect July 1, 2024.

## CHILD CARE

### *Publicly Funded Prekindergarten Programs*

Delegate Vanessa Atterbeary (D – Howard County) introduced House Bill 1441, aiming to implement several adjustments to private prekindergarten programs in Maryland that receive public funding. The proposed changes encompass:

1. Modifying the qualifications required for employees of designated prekindergarten providers, including those benefiting from Prekindergarten Expansion Grants.
2. Establishing a career ladder framework for private prekindergarten providers to enhance professional development opportunities.
3. Adjusting the calculation method for determining the percentage of prekindergarten slots to be filled by qualified private providers, with Tier I children excluded from the calculation.
4. Enhancing the requirements for current agreements between local boards of education, MSDE, qualified private providers, and other relevant agencies.
5. Authorizing local boards of education to seek state funding for leased space for prekindergarten programs.
6. Implementing programs such as technical assistance and professional development opportunities to aid eligible prekindergarten providers in meeting requirements.
7. Establishing prekindergarten provider hubs to facilitate collaboration and resource-sharing among providers.
8. Extending funding mandates for multiple prekindergarten grant programs to ensure continued support for early childhood education initiatives.

These adjustments seek to improve the quality and accessibility of prekindergarten education in Maryland, promoting the holistic development of young learners.

### *Staff Qualification for Public Prekindergarten Providers*

The legislation mandates that by the academic year 2027-2028, prekindergarten providers must adhere to elevated staff qualifications for both teachers and teaching assistants. Notably, these requirements pertain exclusively to public providers. For teaching assistants employed by public providers, meeting high staff qualifications necessitates documented experience in early childhood education, equivalent to a minimum of 15 years, encompassing 20 hours per week and 180 days per year. In contrast, eligible educators from private providers must satisfy the early childhood educator career ladder criteria outlined in the bill. These provisions aim to uphold stringent standards in early childhood education across both public and private prekindergarten programs, ensuring the delivery of quality learning experiences for young children.

### Early Childhood Educator Career Ladder for Private Providers

MSDE is required to create an early childhood educator career ladder for qualified private providers by July 1, 2025. In order to meet the following requirements, the career ladder must: (1) fairly compensate early childhood educators for their work; (2) give them the chance to locate and collaborate with prekindergarten teachers and teaching assistants; (3) allow them to participate in job-embedded professional development to further their skills and knowledge; and (4) pay them greater rates as they move up the ladder.

The levels of the career ladder are:

- level one is an early childhood teaching assistant;
- level two is a prekindergarten lead teacher; and
- level three is an early childhood consulting teacher.

### Proportion of Slots Provided by Private Providers

The legislation amends the phased implementation of the requirement for local boards of education to ensure a specific proportion of prekindergarten slots are provided by private providers. Initially, the mandate stipulated that at least 30% of available spots must be filled by private providers in the 2022–2023 academic year, with an incremental increase of 5 percentage points annually. By the 2026–2027 academic year, the target was set at 50%. However, under the revised bill, commencing from the 2024–2025 academic year, eligible private providers must furnish a minimum of 10% of the slots. Subsequently, this percentage will incrementally escalate by 10% each year until reaching 50% by the 2028–2029 academic year.

Furthermore, the bill extends the deadline for MSDE to utilize an annual waiver to exclude specific children from the prekindergarten calculation for determining the allocation of public and private prekindergarten spaces. Originally scheduled for the 2029–2030 school year, MSDE may now defer including three-year-old Tier I children in the calculation until the 2031–2032 school year. Similarly, until the 2028–2029 school year, instead of the initially proposed 2026–2027 school year, MSDE is prohibited from incorporating four-year-old Tier I students in the calculation.

### Model Memorandum of Understanding

In order to comply with current regulations, local boards of education must utilize a model Memorandum of Understanding (MOU) created by MSDE. The model MOU must include the following in addition to the current requirements: (1) eligible private providers must adopt an early childhood educator career ladder; (2) the local board must devise a mechanism for parents interested in enrolling their child in a prekindergarten program to be given a list of qualified public and private providers in the same area; and (3) peer-to-peer eligible prekindergarten provider meetings must be facilitated by the local board,

through a prekindergarten provider hub if one is established in the area, so eligible prekindergarten providers can exchange best practices in the industry.

#### *Funding for Prekindergarten through the State's Capital Improvement Program*

A local board of education may apply for funding from the Capital Improvement Program for assistance on renovations to public facilities leased as eligible public prekindergarten programs. The management of public facilities leased under this provision must be the responsibility of the building owner and not the local board.

#### *Provider Aid Program*

The program must help qualified private providers meet the requirements for childcare assistance programs, provide them with information regarding training for teachers and teaching assistants, and assist them in putting early childhood curriculum standards into practice. MSDE is required to offer programmatic support through prekindergarten provider hubs, to the extent that is feasible.

#### *Prekindergarten Provider Hubs*

To ensure broad access to the State's mixed prekindergarten delivery system, MSDE is tasked with establishing Prekindergarten Provider Hubs strategically located across the State. These hubs are required to forge agreements with licensed child care centers, registered family or large family child care homes, licensed early childhood educators on the career ladder, and any other organizations deemed beneficial by MSDE. These collaborations aim to seamlessly integrate eligible children into the mixed delivery system, maximizing participation and ensuring comprehensive coverage statewide.

#### *Child Care Career and Professional Development Fund*

In addition to the existing criteria, applicants seeking funding from the Child Care Career and Professional Development Fund must commit to working at least 20 hours per week, for a duration determined by the Office of Child Care within MSDE, in an approved child care setting after completing the course of study. Priority for awards will be given to applicants who meet the following criteria: (1) individuals who have not completed any college courses from an accredited college or university, and (2) individuals attending or accepted by an accredited college or university offering native language or bilingual coursework in early childhood education or a related field. Recipients of awards who fail to fulfill the service obligation are required to reimburse MSDE; however, MSDE may consider waiving repayment under certain circumstances.

#### *Prekindergarten Expansion Grant Eligibility*

The Prekindergarten Expansion Grant is available to teachers in classrooms (apart from Montessori schools or programs) that meet the following additional requirements in addition to the current ones: (1) the teacher must be pursuing certification as a lead teacher

under the early childhood career ladder, or (2) the teacher must hold a bachelor's degree and be working toward obtaining it.

### *Mandated Funding*

The bill extends mandated funding for the Maryland EXCELS Participation Program by requiring the Governor to appropriate an amount equal to or greater than the prior fiscal year's appropriation for fiscal years 2029 and 2030. Similarly, funding for the Maryland Child Care Credential Program is extended beyond fiscal year 2024, with the Governor required to appropriate an amount for fiscal year 2026 at least equal to the appropriation for fiscal year 2024, and maintaining this minimum for fiscal years 2027 through 2030.

Furthermore, the bill extends the required consolidations of publicly supported full-day prekindergarten programs for an additional four fiscal years, from fiscal 2026 to fiscal 2030. During this period, the Governor is mandated to appropriate to the Prekindergarten Expansion Grant Program an amount not exceeding the total received by the program in the previous fiscal year, until fiscal year 2029.

The comprehensive legislation was heavily amended in both the House and Senate, but ultimately passed on *Sine Die* and will take effect on July 1, 2024 in line with the corresponding budget appropriation.

### *Child Care Teachers - Minimum Age*

Delegate Michele Guyton (D – Baltimore County), Chair of the Childcare Committee for the Women Legislators of Maryland, introduced and successfully passed House Bill 662 to mandate that childcare teachers must be at least eighteen years old in order to comply with standards controlling the licensing and administration of childcare centers as well as the registration and operation of big family child care homes. Under current law, Maryland regulations require a childcare teacher to be at least nineteen years old.

The bill passed with near unanimous numbers and takes effect July 1, 2024.

### *Commission on Access to High-Quality Early Childhood Education*

Delegate Michele Guyton (D – Baltimore County) also sponsored House Bill 1261, which aimed to establish the Commission on Access to High-Quality Early Childhood Education and Child Care for Children Three Years Old and Younger. The commission's mandate included making recommendations to ensure high-quality, affordable early childhood education and care for all children in the State aged three years and younger. Additionally, the commission was tasked with exploring the feasibility of implementing universal access to these services. The bill failed, however, to advance beyond the initial hearing in the House Ways and Means Committee.

### *Child Care - Age of Children in Care*

Delegate Aletheia McCaskill (D – Baltimore County) introduced House Bill 1403 to change the age at which certain restrictions on the number of children in care and adult-to-child ratios apply to children in family child care homes and large family child care homes, from younger than age 2 to younger than 15 months. Under current law, a family child care home is a residence in which family child care is provided for up to 8 children, and a large family child care home is a residence in which family child care is provided for at least 9 children, but not more than 12 children. No action was taken on the legislation beyond its public hearing in the House Ways and Means Committee.

### *Comprehensive Background Checks*

At the urging of childcare providers and advocates, Delegate Melissa Wells (D – Baltimore City) proposed House Bill 1254, aiming to enhance the efficiency and effectiveness of comprehensive background checks for childcare providers in Maryland. The bill mandates that prospective employees, volunteers, or any additional adults with direct contact with children at licensed childcare centers or registered family and large family childcare homes undergo a thorough criminal history records check (CHRC), adhering to specified criteria.

Under the provisions of House Bill 1254, MSDE is tasked with establishing a dedicated unit responsible for processing and managing CHRC information for childcare service providers. This unit may enlist credentialing specialists from regional childcare licensing offices across the State and is required to ensure timely updates to applicants regarding their CHRC applications. Additionally, the bill imposes further requirements for child abuse and neglect clearances by the Department of Human Services.

Although the bill received unanimous approval in the House, it encountered obstacles in the Senate, primarily due to concerns voiced by MSDE regarding resource adequacy for implementing the bill's provisions. Nevertheless, MSDE has pledged to collaborate with advocates to enhance the background check process in the future, signaling a commitment to address the concerns raised.

## **SOCIAL SERVICES**

### *ENOUGH Act*

As part of his 2024 legislative agenda, Governor Wes Moore (D) introduced Senate Bill 482/House Bill 694, titled the Engaging Neighborhoods, Organizations, Unions, Governments, and Households (ENOUGH) Grant Program, also known as the ENOUGH Act of 2024. The legislation codifies the Governor's Office for Children (GOC) and designates the Special Secretary of GOC as the head of the office.

The ENOUGH Act mandates the establishment of an ENOUGH Grant Program by the Special Secretary to advance place-based strategies targeting child poverty. It also creates an ENOUGH Grant Fund, for which the Governor is required to allocate \$15 million in the fiscal 2026 budget



bill. This funding is supplemental and not intended to replace any federal support for place-based initiatives.

The objectives of ENOUGH grants include enhancing community health and safety, ensuring access to high-quality education and care from infancy to career, facilitating connections to quality employment opportunities, promoting family-sustaining incomes, and providing comprehensive support for children with disabilities, those in child welfare, and justice-involved youth and young adults. GOC is authorized to award ENOUGH grants for various purposes, including technical assistance for grant application development, neighborhood implementation grants, regional implementation grants for nonprofit entities and local governing bodies, and planning grants for communities needing additional capacity-building time.

The MGA amended the original legislation to ensure consistency in poverty definitions, enhance reporting and accountability requirements for grant recipients, and reinforce the role of GOC in program implementation and oversight.

The bill takes effect July 1, 2024.

### *211 and 311 Services*

Senator Craig Zucker and Delegate Bonnie Cullison (both D – Montgomery County) reintroduced legislation aimed at reforming the administration of the State's 211 services system. The MGA passed Senate Bill 445/House Bill 335, which, after amendments, revised the definition of "Health and Human Services Referral System" to denote a coordinated system for health and human service resources accessible to all State residents through 2-1-1 and other designated technology systems. The bill eliminated the requirements for MDH, in consultation with 2-1-1 Maryland, to evaluate the performance of each 2-1-1 Maryland call center, make recommendations on service quality, and suggest corrective actions.

The legislation also expressed the intent of the legislature for 2-1-1 Maryland to broaden the membership of its board of directors to include two representatives from 2-1-1 Maryland call centers, nominated by the call centers by July 1, 2024. The bill garnered unanimous support in both chambers.

In addition, Senator Cheryl Kagan (D – Montgomery County) and Delegate Ken Kerr (D – Frederick County) sponsored Senate Bill 1068/House Bill 1141. The amended legislation established the legislative intent for DoIT to assess the feasibility of utilizing AI in developing a statewide virtual 3-1-1 portal. If deemed feasible by DoIT, the creation of a virtual 3-1-1 portal would be prioritized. The revised bill addressed significant fiscal concerns and opposition from entities operating the 2-1-1 system, ultimately receiving unanimous approval in both chambers. The legislation is scheduled to take effect on July 1, 2024.

## EDUCATION

### *Collective Bargaining - Faculty, Part-Time Faculty, Post Doctoral Associates, and Graduate Assistants*

Senate Bill 823/House Bill 493 would have granted collective bargaining rights to faculty, part-time faculty, post-doctoral associates, and graduate assistants at the University System of Maryland (USM), Morgan State University, and St. Mary's College of Maryland. Current law, Chapter 341 of 2001, excludes faculty and students from collective bargaining benefits, along with contingent, contractual, temporary, or emergency employees. The bill would have allowed up to four bargaining units at each institution: one for faculty, one for part-time faculty, one for post-doctoral associates, and one for eligible graduate assistants. The bill operates within the framework of the Public Employee Relations Act (Chapter 114 of 2023), which established the Public Employee Relations Board (PERB) to oversee collective bargaining for all public employees. PERB investigates unfair labor practices and certifies exclusive representatives for bargaining units. Certification of an employee organization requires a petition showing at least 30% employee support, with a provision for alternative representation options. PERB conducts secret ballot elections, certifying the organization with the majority of votes as the exclusive representative. Despite Herculean efforts on the part of USM grad students and faculty, the bill sponsors, Senator Ben Kramer and Delegate Linda Foley (both D – Montgomery County), failed to advance the bill beyond its initial hearing.

### *Freedom to Read Act*

Currently, library services in Maryland are primarily managed at the county level, with each county establishing its own public library system governed by a local board. The State provides general guidelines, supports resource sharing, and offers funding assistance. The State Library Board oversees library development, adopts policies, and appoints the State Librarian to ensure the execution of board decisions. Every county, including Baltimore City, has its own public library system governed by a board of trustees or a library agency. Montgomery County operates under a library agency rather than a board. County libraries provide free services to residents and may establish policies for non-residents. The State also facilitates coordination of library resources through the State Library Resource Center and regional resource centers in rural counties, enhancing access to materials and resources for member libraries.

Senate Bill 738/House Bill 785, also known as the Freedom to Read Act, will establish State policies and standards for all libraries in Maryland, ensuring equitable access to library materials and prohibiting exclusion or removal of materials based on partisan, ideological, or religious disapproval. The bill prohibits retaliation against library personnel for performing their job duties in accordance with those State standards. The bill also increases the penalty for unlawfully damaging library property to \$1,000.

In addition, the bill mandates that local school systems operate their library media programs according to certain standards, such as providing materials for the interest, information, and instructional support of students and staff, and not excluding materials based on origin, background, or views. It also requires each local school system to develop procedures for

reviewing objections to materials in school libraries, with materials remaining available until the review process concludes.

Finally, the bill alters the duties of the State Library Board and State Library Agency to incorporate these standards and makes funding for libraries contingent on adoption of written policies consistent with State standards. It also outlines the powers and duties of regional resource centers and their governing boards, emphasizing adherence to State library standards and prohibiting retaliation against employees for following these standards.

Senator Nancy King (D – Montgomery County) and Delegate Dana Jones (D – Anne Arundel County) introduced and passed the bill as an emergency measure so the bill became law with the Governor’s signature.

### *Academic Program Approval and Institutional Mission Statements*

Senator Nancy King (D – Montgomery County) and Delegate Stephanie Smith (D – Baltimore City) introduced Senate Bill 1022/House Bill 1244, which creates a comprehensive overhaul of the approval process for academic programs and institutional mission statements. The bill focuses on aligning these elements with State and regional workforce needs, aiming to bridge the gap between educational offerings and employment demands. It encompasses several key provisions:

1. Mandates the collection of data on state and regional workforce needs.
2. Imposes new requirements for the State Plan for Higher Education, necessitating a revision of the 2022 plan.
3. Establishes a Program Review Process Advisory Council under MHEC.
4. Directs MHEC to formulate regulations.
5. Sets forth requirements for review hearings and compelling MHEC to produce a procedural guide.
6. Mandates MHEC to conduct an annual review of approved academic programs to assess potential harm to Historically Black Colleges or Universities that objected to the programs.
7. Requires institutions to submit letters of intent to MHEC for each new graduate-level program proposed for approval.
8. Establishes the Proposed Programs Collaborative Grant Fund.
9. Requires the establishment of a new approval process for online-only programs offered to out-of-state students.
10. Enhances the review and approval process for institutional mission statements.
11. Requires MHEC to conduct a comprehensive review of the academic program review process.

This bill successfully passed both chambers and is scheduled to become effective on July 1, 2024.

### *More Opportunities for Career-Focused Students Act of 2024*

Senator Jim Rosapepe (D – Prince George’s & Anne Arundel Counties) and Delegate Chao Wu (D – Howard & Montgomery Counties) reintroduced Senate Bill 33/House Bill 837 - More

Opportunities for Career-Focused Students Act of 2024. The act mandates local school systems to regard the pursuit of vocational certificates, industry certifications, or apprenticeship programs as equivalent to postsecondary education. The bill enables students, parents, or guardians to opt to release a student's personal information and results to registered apprenticeship programs or employers. Moreover, the legislation requires local school systems to inform students about employment and skills training opportunities available through registered apprenticeships and specific employers, in a manner similar to how they inform students about postsecondary educational options. Additionally, local school systems that cover costs for students taking college admissions or preparatory exams must also cover expenses for students taking specified apprenticeship entrance or industrial certification exams.

The bill will become effective on July 1, 2024.

### *Educate to Stop the Hate Act*

Senate Bill 1058/House Bill 1181, Education-Curriculum Standards-Antihate and Holocaust Education, or the "Educate to Stop the Hate Act," was introduced by Senator Ben Kramer (D – Montgomery County) and Delegate C.T. Wilson (D – Charles County). This legislation, akin to previous proposals, establishes new statutory mandates and timelines for MSDE to develop curriculum and content standards across all subject areas. Under the bill, MSDE would have been required to review, revise, and adopt new social studies curriculum standards incorporating antihate education by January 1, 2025. Additionally, each local school board in the State would have been mandated to create curriculum guidelines and study courses aligned with MSDE's content standards. Finally, the bill grants the State superintendent authority to withhold state funds from a local school system if the local board of education fails to establish curriculum resources and study courses. Although the Senate Education, Energy, and Environment Committee amended the bill and it passed easily in the Senate, it stalled out in the House Ways and Means Committee.

A related bill, which also did not move beyond the committee of jurisdiction, was House Bill 71 - Education—Holocaust Education—Assistance Grant Program—Established. This bill was also considered during the 2023 legislative session. The bill would have appropriated \$500,000 in state dollars for a Holocaust Education Assistance Grant Program in MSDE to assist local school systems with Holocaust education in public schools. Grants may only be used for Holocaust related teacher training or teaching materials. The large fiscal note proved to be an insurmountable hurdle for the bill.

### *School Employee Antibias Training*

Delegate Vanessa Atterbeary (D – Howard County) introduced House Bill 1386, which mandates MSDE, in collaboration with the Professional Standards and Teacher Education Board, to formulate guidelines for an antibias training program intended for school employees. Under the legislation, each local board of education, in consultation with teachers and other public school employees, must either develop new training programs or update existing ones based on MSDE guidelines. Every two years, these local boards are required to provide antibias training to each public school employee whose job responsibilities involve frequent interactions with students.

Additionally, nonpublic schools participating in state-funded education programs are encouraged to adopt similar training protocols.

The House and Senate passed the bill in two separate versions, necessitating the formation of a conference committee to reconcile discrepancies. Ultimately, the bill was passed late in the evening on *Sine Die* and is slated to take effect on July 1, 2024.

## **TRANSPORTATION**

### ***Electric Vehicle Rebate Program***

Delegate David Fraser Hidalgo (D – Montgomery County) introduced House Bill 689, aimed at reforming Maryland's policies regarding electric vehicles. The bill sought to repeal the excise tax credit for electric vehicles and replace it with the Electric Vehicle Rebate Program. This program would have offered Marylanders a point-of-sale rebate when purchasing electric vehicles. Although the bill successfully passed the House, it encountered delays on the Senate floor during the final moments of the Session. Despite eventually passing the Senate, there was insufficient time for it to return to the House for concurrence. Consequently, the bill failed.

### ***Electric Vehicle Supply Equipment Workgroup***

Senate Bill 951/House Bill 1028, known as the Electric Vehicle Supply Equipment Workgroup, was introduced by Senator Shelley Hettleman and Delegate Nick Allen (both D – Baltimore County). Initially focused on establishing a regulatory framework for electric vehicle supply equipment in Maryland, the bill underwent revisions following consultations with industry stakeholders. It was transformed into a workgroup tasked with developing reliability and reporting standards for electric vehicle charging stations. The workgroup's mandate includes studying and proposing recommendations on the allocation of responsibility among governmental entities for ensuring accountability in the electric vehicle charging station sector. Additionally, it will suggest regulations to be adopted and implemented.

The bill takes effect on July 1, 2024, with the requirement that recommendations be submitted to the Senate Education, Energy, and Environment Committee and the House Economic Matters Committee by December 1, 2024.

### ***Electric Vehicle Weight Limits***

Senator Ariana Kelly and Delegate David Fraser Hidalgo (D – Montgomery County) introduced Senate Bill 870/House Bill 654, titled "Vehicle Laws-Electric Vehicles-Weight Limits." This legislation sought to grant medium and heavy-duty electric trucks an additional allowance of up to 6,000 pounds in total gross weight, axle weight, tandem weight, and bridge formula weight limits. This allowance was intended to determine compliance with maximum gross weight limits for trucks operating on Maryland's state roads. However, the bill encountered a setback as it failed to progress beyond the committees of jurisdiction. The State Highway Association indicated that they already extended the federal exemption administratively to cover state roads and highways.

Consequently, the bill was deemed unnecessary. The State is currently updating its website to ensure clarity regarding this exemption.

### *Autonomous Vehicles*

Delegate Jazz Lewis (D – Prince George’s County) introduced House Bill 1447, titled "Motor Vehicles-Autonomous Vehicles-Standards, Requirements, and Prohibited Acts." Initially, the bill aimed to establish a comprehensive regulatory framework for autonomous vehicles in Maryland. It included provisions prohibiting the operation of fully autonomous vehicles on Maryland highways for transporting passengers unless for personal, non-commercial purposes. During the bill hearing, Delegate Lewis expressed the intention to amend the bill to solely apply to commercial vehicles. However, the committee did not proceed with the bill, resulting in no amendments and no full committee vote. Although the bill did not pass, it is anticipated that this issue will resurface in the 2025 legislative session.

### *Port Renaming*

Senator Guy Guzzone (D – Howard County) and Delegate Marc Korman (D – Montgomery County) introduced Senate Bill 156/ House Bill 375 to ensure that references to the "Port of Baltimore" in different state laws will henceforth refer to it as the "Helen Delich Bentley Port of Baltimore." The bill passed unanimously through both the Senate and House and took effect immediately upon the Governor’s signature on April 9, 2024.

## **PROCUREMENT**

### *Procurement Contract Suspension Pending Audit*

House Bill 852, introduced by Delegate Tiffany Alston (D – Prince George’s County), would have required a unit of the Executive Branch of the Maryland State government to suspend performance on a construction contract or a contract to lease real property if the contract is being investigated by the Office of Legislative Audits for fraud, waste, or abuse in the use of state resources. Under the bill, the suspension ends 60 days after the completion of the investigation. The bill did not advance after its initial hearing in the House Health and Government Operations Committee.

### *Apprenticeship Ratios*

House Bill 1276 sought to introduce comprehensive regulations aimed at construction projects valued at \$250,000 or more, defining them as "covered projects." One of the key provisions would have mandated that starting January 1, 2025, apprentices or journey workers must carry out a minimum of 25% of the total work hours on these projects, with exceptions for specified supervisory personnel. The bill would have empowered the Secretary of Labor to determine the applicable percentage for the following calendar year annually and allowed for adjustments to meet specific apprentice or journey worker supervision ratios in various crafts. Contractors awarded contracts for covered projects would have been obliged to provide written verification that they are employing the required number of apprentices and journey workers. Similarly, subcontractors undertaking work valued at \$100,000 or more on such projects would have been



required to furnish the same written confirmation. In instances where contractors or subcontractors encounter difficulties in obtaining qualified apprentices, the bill allowed for waivers from the requirements.

The bill further imposed reporting obligations on contractors and subcontractors throughout the duration of the covered projects. Specifically, contractors and subcontractors on covered projects must submit monthly reports to MMDL, detailing various aspects including the work hours completed by apprentices and journey workers. Additionally, within 60 days of finishing work on a covered project, contractors and subcontractors would have had to submit a statement to MDL containing the total labor hours performed by apprentices or journey workers. If applicable, they would have had to provide a written declaration justifying any waivers they received. MDL was then mandated to maintain aggregated data from these reports on its website along with descriptions of any waivers granted.

The bill delineated penalties for non-compliance. Contractors or subcontractors failing to adhere to the requirements would have been subject to fines amounting to \$100 multiplied by the total work hours that were supposed to be performed by apprentices or journey workers. Moreover, noncompliant contractors and subcontractors would be barred from contracting to perform work on public projects for a period of three years. These penalties were made enforceable under the Maryland False Claims Act.

The bill failed to advance beyond its initial bill hearing.

### ***State-Use of Fossil Fuel-Powered Lawn and Garden Care Equipment***

Beginning January 1, 2025, House Bill 91, introduced by Delegate Linda Foley (D – Montgomery County), would have prohibited the State from buying or renewing contracts for fossil fuel-powered lawn and garden care equipment unless electric alternatives are unavailable. The bill defined fossil fuel-powered equipment as including leaf blowers, lawn mowers, hedge trimmers, and weed trimmers using gasoline or diesel. Existing fossil fuel-powered equipment bought before January 1, 2025, could remain in use until January 1, 2030, or until it needed replacement. From January 1, 2030, the bill would have outright prohibited the State from using fossil fuel-powered lawn and garden care equipment, with exceptions for wildland fire suppression and prescribed burn management activities. The sponsor saw this as an environmentally responsible and incremental step to banning fossil fuel-powered lawn equipment altogether in the State. After vigorous debate, the bill was withdrawn by its sponsor.

## **PUBLIC SAFETY**

### ***Security Guards at Health Care Facilities***

Senator Jill Carter and Delegate Elizabeth Embry (both D – Baltimore City) introduced Senate Bill 729/House Bill 1277 which, as amended, exempts employers of security guards at health care facilities from reporting any use of force by said security guard to the Secretary of State Police within 48 hours of receiving that notice. Instead, this bill requires the employer to report on the number of code greens initiated for combative persons and code purples initiated for security-only



responses, having occurred in the prior seven days, as identified in Title 10 of the Code of Maryland Regulations.

This bill is slated to take effect on June 1, 2024; however, the provisions related to security guards at health care facilities takes effect on January 1, 2025. Lastly, this bill delays the effective date of Chapter 763 of 2023 from June 1, 2024 to January 1, 2025.

### *Sex Crimes - Consent*

Senate Bill 758/House Bill 496 provides a detailed definition of consent as the clear and voluntary agreement to engage in specific sexual activities, including vaginal intercourse, sexual acts, or sexual contact. It explicitly states that consent does not necessitate documentation. The bill repeals as an element the use of force or threat of force and instead ingrains the absence or presence into these crimes.

To ascertain the presence or absence of consent in cases involving sexual crimes, the bill outlines several factors to consider that it garnered from Maryland case law:

1. Consent, lack of consent, or withdrawal of consent can be inferred from words or conduct, taking into account the overall circumstances of the situation.
2. Consent can be withdrawn either before or during the sexual activity.
3. Lack of consent can be communicated through both verbal and non-verbal means.
4. Submission due to fear, threat, or coercion does not constitute consent.
5. An individual's mode of dress is not indicative of consent.

In terms of the existing law on second-degree rape, as per §3-304 of the Criminal Law Article, the bill stipulates that engaging in vaginal intercourse or sexual acts without consent is prohibited. This prohibition extends to situations involving individuals who are substantially cognitively impaired, mentally incapacitated, physically helpless, or under the age of 14, with the perpetrator being at least four years older.

Second-degree rape is classified as a felony and carries penalties of imprisonment for up to 20 years. However, there are enhanced penalties for offenders aged 18 or older who engage in prohibited acts with children under 13. In such cases, a mandatory minimum sentence of 15 years imprisonment applies, which cannot be suspended or paroled. Specific notice requirements must be met for the State to seek the mandatory minimum sentence, and failure to comply with these requirements renders the mandatory minimum sentence inapplicable.

The bill introduced by Senator Arianna Kelly and Delegate Emily Shetty (both D – Montgomery County) will become effective on October 1, 2024.

## *Juvenile Law – Reform*

Senate President Ferguson (D – Baltimore City) and House Speaker Adrienne Jones (D – Baltimore County) proposed and passed comprehensive reforms to the juvenile justice system that will impact various aspects of jurisdiction, intake procedures, probation, victim services, and reporting requirements. The following details the provisions of the bill:

### **I. Policies and Procedures for Children in the Juvenile Justice System:**

- **Juvenile Court Jurisdiction:** The bill expands the jurisdiction of juvenile court to include children as young as 10 who commit certain serious offenses involving firearms or sexual offenses.
- **Intake in Juvenile Cases:** It reduces the time for intake officers to make inquiries from 25 days to 15 business days. It exempts certain cases from requiring interviews with the child, specifically those involving firearms offenses.
- **Forwarding Complaints to State’s Attorney:** Complaints alleging serious offenses must be forwarded to the State’s Attorney for consideration for prosecution.
- **Child in Need of Supervision Petitions – Motor Vehicle Theft:** Law enforcement must forward complaints regarding motor vehicle theft by children under 13 to DJS.
- **Authorized Detention Prior to a Hearing:** The bill expands the criteria for authorized detention and extends the timeframe for review hearings.
- **Juvenile Probation:** Time limits on juvenile probation are extended, allowing for longer probation periods for both misdemeanor and felony offenses.
- **Violations of Juvenile Probation:** Provisions are made for handling violations of probation, including new criteria for technical violations and progress reports.
- **Confidential Juvenile Records:** Access to juvenile records is reassigned to the Commission on Juvenile Justice Reform and Emerging Best Practices.

**II. State Board of Victim Services:** The responsibilities of the State Board of Victim Services are expanded to include developing pamphlets on filing complaints alleging a child is in need of supervision.

**III. Commission on Juvenile Justice Reform and Emerging and Best Practices:** The commission is established to replace the State Advisory Board for Juvenile Services, with expanded responsibilities including researching and recommending policies to improve juvenile services.

**IV. Juvenile Justice Monitoring Unit:** Reporting requirements are altered to align with changes in the structure and responsibilities of the juvenile justice system.

**V. Administrative Responsibilities and Reporting Requirements for DJS:** The State Comprehensive Juvenile Services 3-Year Plan is expanded to include programs for youth at risk

of gun violence or involved in motor vehicle theft. Reporting requirements for DJS are extended and expanded.

**VI. Expanded Reporting Requirements for the Governor’s Office:** Reporting requirements for at-risk youth prevention and diversion programs and juvenile arrests are expanded.

These reforms aim to enhance the juvenile justice system's effectiveness, improve outcomes for youth involved, and ensure greater accountability and transparency in the process. The bills’ provisions have staggered effective dates of July 1<sup>st</sup> and October 1<sup>st</sup> of this year.

### *Commission on Hate Crime*

Delegate Dalya Attar (D – Baltimore City) introduced House Bill 763 to amend the membership structure of the Commission on Hate Crime Response and Prevention. Specifically, the bill removes specific organizational members of the Commission and mandates that the Attorney General appoint individuals representing or advocating for members of protected classes under the State Hate Crime Laws, as outlined in Title 10, Subtitle 3 of the Criminal Law Article. The bill also sets a termination date of June 30, 2027, for the Commission, along with all regulations and policies established under its statutory authority.

The bill becomes effective on October 1, 2024.

### *Comprehensive Community Safety Funding Act*

Senator Sarah Elfreth (D - Anne Arundel County) and Delegate Bernice Mireku-North (D – Montgomery County) proposed the Comprehensive Community Safety Funding Act, Senate Bill 784/House Bill 935, to introduce an 11% excise tax on firearms, firearm accessories, and ammunition (FFAA) sold by federally licensed firearms dealers within Maryland. The bill delineated specific allocations for the revenue generated by this tax, which included funding for trauma services, violence prevention programs, support for survivors of homicide victims, and initiatives aimed at firearm violence prevention and intervention. The Comptroller was designated to oversee tax administration and ensure compliance through specified tax return procedures.

Under the bill's provisions, revenue from the FFAA excise tax would be distributed as follows:

- 44% to the Maryland Trauma Physician Services Fund;
- 29% to the R Adams Cowley Shock Trauma Center at the University of Maryland Medical System;
- 23% to the Violence Intervention and Prevention Program Fund;
- 2% to the Survivors of Homicide Victims Grant Program within the Governor’s Office of Crime Prevention and Policy; and
- 2% to the Center for Firearm Violence Prevention and Intervention within MDH.

While the Senate successfully advanced a modified version of the bill before the crossover deadline, the House chose not to proceed with the legislation during this Session.

## **ENERGY AND UTILITY REGULATION**

### *Energy Retail Suppliers*

Senate Bill 1/House Bill 267, sponsored by Senator Malcolm Augustine (D – Prince George’s County) and Delegate Brian Crosby (D - St. Mary’s County), marks one of the most contentious and vigorously debated pieces of legislation passed this Session. This bill introduces significant alterations to regulatory requirements governing the marketing and sale of electricity and gas by retail suppliers, utilities, and associated entities, with a primary focus on residential service. Notably, the bill is only applicable, prospectively, and cannot affect any electricity or gas supply agreements in effect before December 31, 2024.

The legislation encompasses a wide range of provisions, including:

- Introduction of energy salesperson and energy vendor licenses, subject to specific criteria;
- Updating and aligning licensing requirements for electricity and gas suppliers, along with stricter penalties;
- Establishing new regulations for residential electricity supplier contracts and billing entity reporting;
- Introducing additional mandates for standard offer service marketing and green power marketing;
- Imposing extra requirements for residential energy retailers;
- Expressing the MGA's intent for the Public Service Commission (PSC) to establish, staff, and finance a new division dedicated to retail supply;
- Authorizing PSC to impose a one-time \$275,000 special assessment as well as increasing annual assessments on public service companies to fund its operations; and
- Modifying the purposes and permitted uses of the Retail Choice Customer Education and Protection Fund, now renamed the Education and Protection Fund, to include funding a mandatory training and educational program.

During the latter part of the Session, the House Economic Matters Committee appended an amendment to Senate Bill 1 concerning the potential co-location of data centers on energy generation sites, bypassing electric transmission and distribution systems. However, this

contentious amendment was ultimately removed from the bill during a conference committee on *Sine Die*, leading to the bill's final passage.

The bill becomes effective on July 1, 2024, with various other effective dates to accommodate existing energy supplier agreements.

### ***Baltimore Regional Water Governance Model Workgroup***

Chapters 178 and 179 established the Baltimore Regional Water Governance Task Force, which has various objectives, including reviewing existing regional governance models and making recommendations. Baltimore City manages water and wastewater facilities under agreements dating back to 1972 and 1974. The city bills all customers for water use, while each jurisdiction bills its own residents for sewer charges. The Baltimore County Metropolitan District, established in 1924, delineates the geographic boundary for public water and sewer service eligibility. The regional drinking water and wastewater systems serve approximately 1.8 million residents across Baltimore City, Baltimore County, and surrounding jurisdictions.

Overall, Senate Bill 1174/House Bill 1509, introduced by Senator Cory McCray (D – Baltimore City) and Delegate Dana Stein (D – Baltimore County), seeks to further analyze and potentially refine the governance structure for water and wastewater management in the Baltimore region, building upon the findings and recommendations of the previous task force. Additionally, the bill reestablishes the Baltimore Regional Water Governance Model Workgroup whereby the Mayor of Baltimore City and the Baltimore County Executive must jointly provide staff for the workgroup. The workgroup must hire independent consultants to assist in its tasks who must consult with outside counsel for legal assistance related to regional governance issues and experts in equity analysis.

The bill mandates the Baltimore Regional Water Governance Model Workgroup to:

- Review the report submitted by the previous Baltimore Regional Water Governance Task Force;
- Analyze pertinent issues regarding implementing a regional water governance model in the Baltimore area;
- Assess the necessity of establishing a City-County Rate Board to ensure fairness for consumers and balance rates between the city and county; and
- Evaluate recommended regional governance models from the task force report and other potential models to determine their impact on specified metrics.

Finally, the workgroup must develop a report of its findings and submit it to the Mayor of Baltimore City, the Baltimore County Executive, the Governor, and the MGA by June 30, 2027. The bill takes effect on July 1, 2024, and terminates on June 30, 2027.

## **EmPower**

Delegate Crosby (D – St. Mary’s County) reintroduced House Bill 1393 with the goal of reforming the administration and financing of the State's EmPower program. The bill, as amended and passed, modifies provisions related to electric distribution system planning established in the Climate Solutions Now Act (CSNA) of 2022. This includes broadening the scope of State policy goals beyond the electric distribution system and making conforming changes. Additionally, it expands references to federal funds available for electric companies to meet the State's policy goals, including related labor requirements. Furthermore, House Bill 1393 mandates the PSC to require electric companies to take specific actions. It also stipulates that regulations and PSC orders issued under CSNA must consider the differences, circumstances, and resources among different types of electric companies. If necessary, separate requirements may be established for each type. The bill introduces a new financing structure aimed at addressing the accumulated costs of the program in recent years. However, this may lead to significant increases in the surcharge applied to utility bills in the future.

House Bill 1393 is set to take effect on October 1, 2024, with the PSC required to promulgate regulations by December 31, 2025.

## ***Utility Equipment Removal***

In 2024, several legislative efforts were made to streamline the removal of public utility equipment during transportation construction projects. Delegate Lorig Charkoudian (D – Montgomery County) introduced House Bill 101, aiming to establish a formalized statutory process for the State Highway Administration (SHA) and utilities in Maryland. This bill sought to provide guidelines for SHA and utilities when it becomes necessary to remove, relocate, or adjust utility facilities for State highway projects.

Similarly, Senate Bill 401/House Bill 917, sponsored by Senator Cheryl Kagan (D – Montgomery County) and Delegate Andrew Pruski (D – Anne Arundel County), proposed requirements for utility owners to submit service installation and relocation information to the Maryland Department of Transportation (MDOT) or the Maryland Transportation Authority (MDTA) within 60 days after completing the utility service provision within a right-of-way or on property owned or controlled by MDOT or MDTA.

These bills acknowledge the need for improvement in the utility equipment removal process; however, instead of immediate enactment, the legislation was referred to an interim study to collaborate with MDOT and regulated utilities to develop a more practical approach.

## ***Renewable Portfolio Standard – Waste-to-Energy***

Senator Karen Lewis-Young (D - Frederick County) and Delegate Vaughn Stewart (D – Montgomery County) reintroduced legislation to remove waste-to-energy as an eligible Tier 1 energy source in the State’s Renewable Energy Portfolio Standard (RPS) for all RPS compliance years starting on or after January 1, 2024. There were robust hearings on both bills in the Senate

and House, but neither committee moved forward on the bill and the legislation died due to lack of action. It is expected that similar legislation will be reintroduced in future sessions.

### ***Lithium-Ion Battery Commission***

Senator Jason Gallion (R – Cecil County) and Delegate Sara Love (D – Montgomery County), in conjunction with the Maryland Association of Counties, introduced Senate Bill 532/House Bill 468 to establish a Commission to Advance Lithium-Ion Battery Safety in Maryland. The Office of the State Fire Marshal must provide staff for the commission that must include representatives from the PSC, the Power Plant Research Program, the Maryland Fire Rescue Institute, the vehicle dismantling sector, a battery recycling trade group, the grid scale battery energy storage industry, and the vehicle propulsion manufacturing industry. By December 1, 2024, the commission must submit an interim report on the progress and status of the commission to the Legislative Policy Committee. By December 1, 2025, the commission must report its findings and recommendations to the Governor and the MGA.

The bill takes effect June 1, 2024, and terminates December 31, 2025.

### ***Regional Transmission Organization – Transparency and Mandatory Participation***

Senator Katie Fry Hester (D – Howard & Montgomery Counties) and Delegate Lorig Charkoudian (D – Montgomery County) collaborated on reintroducing legislation aimed at enhancing transparency concerning votes taken by electric companies within a regional transmission organization (RTO). Originally, the bill proposed making RTO membership mandatory for energy utilities, restricting utilities' ability to rate-base certain lobbying and government relations activities, and imposing additional requirements on affected utilities. However, the Senate and House failed to reconcile their differences regarding amendments to the bill, and negotiations in a conference committee on *Sine Die* did not lead to a resolution. Consequently, the bill lapsed due to inaction. Nonetheless, there are expectations that a more scaled-down version of the bill will be reintroduced in the 2025 legislative session. Additionally, similar legislation is being considered in several other states within the PJM region.

### ***Solar Energy Incentives***

Senate Bill 783/House Bill 1435, sponsored by Senator Sarah Elfreth (D – Anne Arundel County) and Delegate David Fraser-Hidalgo (D – Montgomery County), represents a comprehensive legislative effort to promote solar development in Maryland. The bill, which stemmed from recommendations by the Solar Task Force that convened during the 2023 interim, includes several key provisions:

1. Establishment of the Small Solar Energy Generating System Incentive Program by the PSC, allowing eligible solar systems to generate certified solar renewable energy credits (SRECs) with a compliance value of 150% of non-certified SRECs;
2. Implementation of wage and labor requirements for specific solar systems;



3. Introduction of requirements for home improvement contracts related to rooftop solar installations;
4. Establishment and modification of solar property tax incentives;
5. Authorization for the Maryland Energy Administration (MEA) to allocate up to 10% of solar alternative compliance payments for the administration of the Small Solar Energy Generating System Incentive Program;
6. Extension of the duration of all renewable energy credits for State Renewable Energy Portfolio Standard (RPS) purposes to five years; and
7. Increase in the maximum generating capacity for specified net-metered facilities and allowance for eligible customer-generators participating in meter aggregation to receive excess generation from multiple generating systems.

Moreover, the House Economic Matters Committee introduced amendments based on several unsuccessful standalone bills during the Session. These amendments include mandates for counties and municipalities to implement software for tracking and approving permits for residential solar and storage projects, creation of the Custom-Sited Solar Program within MEA, removal of exemptions from prevailing wage requirements for projects operating under project labor agreements, and clarification that prevailing wage requirements for underground utility work do not apply to contracts entered into before March 1, 2024.

The bill, which was approved by the Senate and House on *Sine Die*, will take effect on June 1, 2024, with certain net metering requirements becoming effective on January 1, 2025.

### ***Renewable Energy Development and Siting***

Several pieces of legislation aimed at altering the process for siting renewable energy projects in Maryland were introduced during the legislative session, particularly focusing on solar and storage development.

- Delegate C.T. Wilson (D – Charles County) sponsored House Bill 1407, which would have prohibited counties and Baltimore City from adopting zoning laws or regulations that restrict or prohibit the construction or operation of energy generating systems classified as "Tier 1" renewable sources under the RPS. Additionally, the bill would have mandated the PSC to create a renewable energy compliance and oversight plan to ensure each jurisdiction meets proportional Tier 1 generation requirements within a decade. Each county and Baltimore City would have been required to conduct a related study and create a local plan, with the option to seek assistance from State units with relevant expertise.
- Delegate Kris Valderrama (D – Prince George's County) sponsored House Bill 1367, which would have required individuals to obtain a Certificate of Public Convenience and Necessity (CPCN) before constructing an "energy storage device" in Maryland. The bill

defines an "energy storage device" and would have applied only prospectively, making conforming changes to provisions relating to the CPCN process.

- Senator Katie Fry Hester and Delegate Natalie Ziegler (both D – Howard & Montgomery Counties) sponsored Senate Bill 1082/House Bill 1328, in the hopes of introducing changes to State law concerning solar energy and energy storage development. The bill addresses various aspects, including county conservation and restoration funds, a Utility-scale Solar Design and Siting Advisory Commission, cover crops on solar energy generating station land, standards and requirements for energy storage devices, State purchases of solar energy, land suitable for solar energy development, and support provided to local governments by the Department of Natural Resources regarding the solar energy development permitting process.

Despite their varied approaches, none of the bills progressed beyond initial public hearings during the Session. However, it is anticipated that similar legislation aimed at streamlining the process to incentivize more renewable development will be introduced in future sessions.

## COURTS

### *Admissibility of Creative Expression*

Protecting the Admissibility of Creative Express, also known as the PACE Act, Senate Bill 662/House Bill 1429 was introduced by Senator Nick Charles (D - Prince George's County) and Delegate Marlon Amprey (D – Baltimore City). The bill would have required that in any criminal or juvenile proceeding, the creative expression of a defendant or respondent is not admissible against the defendant or respondent unless the court finds, by clear and convincing evidence, that:

- The defendant or respondent intended the creative expression to be literal, rather than figurative or fictional or if the creative expression is derivative, the defendant intended to adopt the literal meaning of the creative expression as their own;
- There is a strong indication that the creative expression refers to the specific facts of the alleged offense;
- The creative expression is relevant to a disputed issue of fact; and
- The creative expression has probative value that cannot be provided by other admissible evidence.

“Creative expression” means the expression or application of creativity or imagination in the production or arrangement of forms, sounds, words, movements, or symbols. The bill, despite robust support, did not advance beyond its initial hearings.

### *Child Custody - Rebuttable Presumption of Joint Custody*

Senator Nick Charles (D – Prince George's County) introduced Senate Bill 663, which proposed that in initial child custody proceedings involving parents, regardless of marital status or gender,

there is a presumption that joint legal custody and joint physical custody for approximately equal periods of time are in the child's best interests. Under the bill, factors for the court to consider in determining the child's best interests include the child's preferences (if of sufficient maturity), the distance between parents' residences and the child's school, parents' work schedules, ability to assist with after-school care, and any other relevant factors. If the court determines, based on a preponderance of the evidence, that joint custody is not in the child's best interests, sole custody may be awarded to one parent. If this occurs, the court must record the factors considered as well as ensure frequent contact and visitation between the child and the noncustodial parent. The Senate Judicial Proceedings Committee did not give the bill an up or down vote thus the bill failed for a lack of action.

### ***Civil Actions - Noneconomic Damages - Personal Injury and Wrongful Death***

Senate Bill 538/House Bill 83, introduced by Senator Jeff Waldstreicher and Delegate Natalie Ziegler (both D – Montgomery County) would have repealed the caps on noneconomic damages in civil actions for personal injury or wrongful death and related provisions; however, the caps related to damages in medical malpractice cases would have remained untouched by this bill. If passed, the bill would have applied prospectively and could not be applied or interpreted to have any effect on or application to any cause of action arising before October 1, 2024. The Senate Judicial Proceedings Committee amended the bill to raise the cap from \$935,000 to \$1,700,000 (an 82% increase) and added an escalator of \$20,000 per year. The House Judiciary Committee did not take action on the bill.

### ***Judge Andrew F. Wilkinson Judicial Security Act***

In October of 2023, Washington County Circuit Court Judge Andrew F. Wilkinson, 52, was gunned down outside his home by a litigant in a contested divorce proceeding over which the judge had recently presided. In response, Senator Paul Corderman (R – Frederick & Washington Counties) and Delegate Luke Clippinger (D –Baltimore City) sponsored Senate Bill 575/House Bill 664 to establish the Office of Information Privacy (OIP) within the Administrative Office of the Courts (AOC). This legislation allows a "protected individual" or the OIP acting on their behalf, to request the removal of their personal information from publications or postings. Requests must be made via email or certified mail, providing sufficient details to verify the requester's identity as well as identify the publication containing their personal information. Governmental bodies or individuals must confirm receipt of the request and remove the information within 72 hours, if already published. Violations of these provisions may result in civil actions and penalties, including punitive damages for deliberate non-compliance.

Additionally, the OIP is tasked with establishing and managing a Judicial Address Confidentiality Program to protect participants' actual addresses from public records. Responses to requests under this program must be prompt and knowingly disclosing a participant's address can lead to civil actions.

The legislation also creates a Task Force to Ensure the Safety of Judicial Facilities, which will operate under the AOC. By January 1, 2025, this task force must present its findings and recommendations to the MGA and the Chief Justice of the Maryland Supreme Court.

The bill received unanimous approval in both chambers and becomes effective on June 1, 2024. The provisions related to the task force will operate from June 1, 2024, to June 30, 2026.

## **STATE ETHICS/ELECTIONS**

### **501(c)(3) Political Contributions**

The Lobbying Provisions of the Maryland Public Ethics Law regulates lobbying activities in the state. Entities that spend a certain amount of money to influence legislative or executive actions must register with the State Ethics Commission and comply with reporting requirements. Regulated lobbyists must file a registration within five days of engaging in lobbying activities and annually thereafter. They are also required to disclose financial information, including contributions made to politicians and compensation paid to lobbyists. Furthermore, under the Maryland Public Ethics Law, individuals must file financial disclosures with the Maryland State Board of Elections if they spend at least \$500 on compensation for lobbyists and make contributions totaling \$500 or more. Failure to comply with these requirements can result in fines and penalties, including misdemeanor charges with potential imprisonment. Senate Bill 1143/House Bill 434, sponsored by Senator Cheryl Kagan (D – Montgomery County) and Delegate Vanessa Atterbear (D – Howard County) exempts qualified 501(c)(3) nonprofit organizations from these lobbying and financial disclosure requirements.

The bill takes effect July 1, 2024.

### ***Removal or Suspension from Boards, Committees, Commission, Task Forces, & Workgroups***

House Bill 809 delineates procedures for the removal or suspension of members from various bodies established by state law. Under the bill, members of such entities may be removed or suspended for reasons including misconduct, incompetence, neglect of duties, or other valid causes by the appointing individual or entity. However, removal or suspension can only occur after consultation with the chair of the respective body (unless the member in question is the chair) and after providing the member not only with notice but also an opportunity to be heard regarding the grounds for their removal or suspension. It is important to note that the bill excludes standing committees of the MGA or any other committees established by the MGA from its scope.

Delegate Joe Vogel (D – Montgomery County) sponsored the bill, which will become effective on October 1, 2024.

### ***Election Disinformation & Improper Influence***

Despite the majority of election reform bills introduced during the 2024 Legislative Session failing to gain traction, Delegate Sandy Rosenberg (D – Baltimore City) achieved success with House Bill 333. This legislation, as amended, mandates SBE to establish and maintain a public portal on its website for reporting election disinformation. This disinformation includes inaccurate or misleading information pertaining to the timing, location, or procedures of an election, as well as election outcomes or voting rights within the State. Additionally, House Bill 333 requires SBE to

conduct regular reviews of submissions made through the portal by the public. Where necessary, corrective information must be disseminated, or submissions may be referred to the State Prosecutor for further action. The bill also clarifies the definition of "influence" within existing statutes, which prohibit the willful and knowing attempt to influence a voter's decision or their decision to vote through various means. "Influence" is defined as the use of pressure, deception, trickery, or direct or indirect authority to induce action or alter the decisions of others, irrespective of the communication medium employed.

The bill takes effect June 1, 2024.

### ***Protecting Election Officials Act of 2024***

Governor Wes Moore (D), as part of his 2024 legislative agenda, successfully ushered in Senate Bill 480/House Bill 585. This measure underscores the commitment to safeguarding election officials and their families from intimidation or harm, thus upholding the integrity and security of the electoral process. Under the bill, it is unlawful for an individual to knowingly and willfully threaten harm to an election official or their immediate family member due to the official's involvement in administering the election process. Additionally, the bill prohibits knowingly sending, delivering, or creating threats with the intent of harming an election official or their immediate family member because of their role in administering elections. Those found in violation of these provisions face misdemeanor charges, carrying penalties of imprisonment for up to three years and/or fines up to \$2,500. The bill's passage occurred along party lines, and it is deemed emergency legislation, thereby becoming effective immediately upon enactment.

### **Ranked Choice Voting**

The Montgomery County Delegation, under the leadership of Delegate Julie Palakovich-Carr and Delegate Aaron Kaufmann (both D – Montgomery County), reintroduced perennial legislation authorizing the Montgomery County Council to adopt, by law, a ranked choice voting (RCV) system or an approval voting system for certain elections. As in previous years, the bill passed successfully out of the local delegation but failed to gain traction in the House Ways and Means Committee.

A similar fate was met Senate Bill 1129/House Bill 1353, sponsored by the Howard County Delegation to authorize the Howard County Council to adopt, by law, a RCV system for elections for the Howard County Board of Education.

Relatedly, Senator Cheryl Kagan (D – Montgomery County) and Delegate Kris Fair (D – Frederick County) introduced Senate Bill 493 and House Bill 1514, which are similar but not identical bills that would have authorized SBE to establish RCV in Maryland, specifically for the 2028 presidential primary. While neither bill progressed beyond initial public hearings, there is growing support and interest in exploring RCV as an election option in Maryland and similar legislation is expected to be worked on in the interim and reintroduced in the 2025 Legislative Session.

## **REAL PROPERTY/CONDOMINIUMS**

### ***Renters' Rights and Stabilization***

Governor Wes Moore (D) introduced Senate Bill 481/House Bill 693, which aimed to reform housing laws in Maryland. Originally, the bill proposed various measures, including raising court filing fees for failures to pay rent, establishing a Right of First Refusal policy for tenants, capping security deposit amounts, and creating the Office of Tenants' Rights. When concerns arose that the initial version of the bill would excessively burden housing providers and disrupt the balance between tenants and landlords, the bill was meaningfully amended. As amended, the bill increases the filing fee for failure to pay rent proceedings from \$8 to \$43 (the original bill proposed an unrecoverable \$93 filing fee), which the landlord may recover if awarded by a judge from the tenant's security deposit at the end of the tenancy. A portion of this fee supports attorneys for tenants in rent court, ensuring fairness in legal proceedings. The amended bill also establishes the Office of Tenant and Landlord Affairs, which is responsible for developing a tenant bill of rights to be included in residential leases. Additionally, the bill sets stringent limits on security deposits, requiring only the first month's rent and a security deposit equal to one month's rent. The bill takes effect on October 1, 2024.

### ***Recordation Procedures***

Senator Mary-Dulany James (D – Harford County) reintroduced Senate Bill 423, which, with amendments, mandates that upon request, the county treasurer, tax collector, or director of finance provide a certificate itemizing taxes, assessments, and charges due to the county or municipality against a property. The county or municipality may charge a fee of up to \$55 for issuing the certificate. Furthermore, counties must establish procedures to facilitate certificate issuance, while local clerks of circuit court and the Maryland Department of Assessments & Taxation must coordinate procedures to enable electronic satisfaction of prior approval and conditions precedent to recording documents or making electronic payments of fees or taxes. Moreover, under this bill, a bona fide purchaser for value with no prior notice of the charge or assessment before purchasing a property may not be subjected to a charge or assessment provided that a certificate is issued. However, payment of a fee and issuance of a certificate do not prevent a claim by a county or municipality for payment of a charge or assessment against either the property owner at the time of certificate issuance or a person acquiring the property with knowledge of the charge or assessment.

Senate Bill 423 successful navigated both chambers this session and will become law October 1, 2024.

### ***State Tax Sale Ombudsman***

Delegate Vanessa Atterbeary (D – Howard County) introduced House Bill 54, which, with amendments, mandates the State Tax Sale Ombudsman to engage a vendor to administer an installment payment program. This program allows homeowners to pay taxes in advance, currently due, or in arrears. However, homeowners cannot enroll in the installment payment program for advance tax payment if their dwelling is encumbered by a deed of trust, mortgage, or any other



arrangement that involves escrowing tax payments. Nonetheless, county and municipal governments are empowered to establish installment payment plans for taxes in arrears on residential property. Additionally, there are two exemptions from the requirement that all property taxes, assessments, and other charges due on a property must be paid before a transfer. These exemptions apply when an heir, legatee, or grantee enters into or assumes the obligations of a payment plan for the transfer of residential property from the estate of a decedent to an heir or legatee, as well as for a grant of land subject to a property tax payment plan.

This bill is slated to take effect on July 1, 2024.

### ***Recordation with False Information***

Delegate William Wivell (R – Washington and Frederick Counties) reintroduced House Bill 1308 which prohibits an individual from recording a deed or other instrument when a person knows that it contains false information. This includes information related to property ownership. A violator is guilty of a misdemeanor and subject to a maximum penalty of \$500. The prosecution of this offense must be initiated within three years of the offense and the court may award either party costs and reasonable attorney's fees in an action to quiet title.

Unlike last session, this bill passed in both Chambers and will become law on October 1, 2024.

### ***Housing Workforce Solutions***

As Maryland continues to expand its inventory of apartment communities to address the pressing issue of affordable housing, a corresponding need for a skilled workforce within the housing industry arises. Recognizing this necessity, Senator Cory McCray (D – Baltimore City) and Delegate Jazz Lewis (D – Prince George's County) introduced Senate Bill 91/House Bill 11, aiming to establish the Leasing Training Program under MDL. This program is designed to equip job seekers with the necessary training and resources to pursue careers in the residential rental housing sector. Although Senate Bill 91 successfully passed the Senate, its progress in the House was halted after an initial hearing. Nonetheless, an amendment was made to the Budget, mandating the allocation of \$300,000 by MDL towards a program dedicated to training and facilitating job seekers' entry into the residential rental housing industry.

### ***Rent Court Workforce Solutions Pilot Program***

To foster sustainable economic empowerment for individuals navigating rent court proceedings, Senators Jeff Waldstreicher (D – Montgomery County) and Michael Jackson (D – Prince George's, Charles, & Calvert Counties), alongside Delegates Kevin Harris (D – Prince George's & Charles Counties) and Vaughn Stewart (D – Montgomery County), jointly introduced Senate Bill 354/House Bill 372. This legislative initiative aims to establish a three-year pilot program in Prince George's and Montgomery Counties. The program's primary objective is to connect individuals involved in rent court proceedings with vital workforce development services, job opportunities, and apprenticeship programs. The program seeks to break the cycle of housing instability and financial insecurity by providing access to these crucial resources, offering individuals pathways to sustainable employment and economic stability. Ultimately, the enactment of these bills



promises to provide meaningful opportunities for individuals to secure employment and reduce their reliance on rent court interventions.

The legislation is slated to take effect on June 1, 2024.

### *Shielding Court Records*

Senator Charles Sydnor (D – Baltimore County) and Delegate Terri Hill (D – Howard County) reintroduced Senate Bill 19/House Bill 181 to reform the handling of court records in rent-related proceedings. As amended, the legislation grants judges the discretion to shield all court records associated with a failure-to-pay-rent case resulting in a judgment of possession under two conditions: first, if the tenant exercises the right of redemption with at least 12 months elapsed, and second, if the District Court finds good cause for shielding. Upon the judge's approval of a tenant's motion to shield, the District Court is required to implement the shielding of court records within 30 days. However, if a possession judgment is entered in a case where the tenant raised a rent escrow defense, only records related to the possession judgment may be shielded. Additionally, cases in which no judgment is made against the tenant must have their records shielded within 60 days. Access to shielded records is restricted, allowing opening only upon a tenant's written request or by the District Court's order showing good cause. This comprehensive approach balances privacy rights with transparency and judicial discretion.

The bill takes effect on August 1, 2024.

### *Access to Counsel in Evictions – Reporting Requirements*

Senator Chris West (R – Baltimore and Carroll Counties) and Delegate Jon Cardin (D – Baltimore County) collaborated on Senate Bill 147/House Bill 498, aimed at refining reporting requirements for the Maryland Legal Services Corporation (MLSC). This legislation mandates MLSC to submit an annual report to the MGA regarding the Access to Counsel in Evictions program. The report must include detailed information such as case types, attorney compensation per case, geographic distribution of cases, case outcomes, allocation of State and federal funds to designated organizations, and the number of individuals receiving legal representation for multiple cases. By disaggregating data and providing comprehensive insights into the program's operations, the bill enhances transparency and accountability in the provision of legal services for eviction cases.

The legislation successfully passed and is scheduled to take effect on October 1, 2024.

### *Fair Housing Wiretapping*

Senate Bill 57/House Bill 392, introduced by Senator Charles Sydnor (D – Baltimore County) and Delegate Vaughn Stewart (D – Montgomery County), would have introduced the first civil exception to Maryland's two-party consent law for audio recordings. The legislation would have permitted individuals to intercept wire, oral, or electronic communications if they are functioning as fair housing testers for programs operated by federal, state, or local governments, or certain nonprofit civil rights organizations. Crucially, the individual would have had to have been a party to the communication and record the conversation with the specific intent of gathering evidence

related to a fair housing violation. The legislation successfully passed the Senate, but failed for lack of action in the House Judiciary Committee.

### *Tenant Safety Act*

Senator Ariana Kelly (D – Montgomery County) and Delegate Vaughn Stewart (D – Howard County) reintroduced Senate Bill 964/House Bill 1117, which creates a rebuttable presumption for a tenant to receive rent abatement in a rent escrow case, establishes a new private right of action for violations of the warranty of habitability, and establishes that a tenant may be awarded attorney fees in affirmative rent escrow cases and actions brought for violations of the warranty of habitability. As part of the newly created private right of action for violations of a warranty of habitability, the tenant is required to provide notice of the property's defect to the landlord before bringing an action and the landlord must be provided a reasonable amount of time to remedy the defect.

The bill becomes effective October 1, 2024.

### *From Just Cause to Good Cause*

Senate Bill 644/House Bill 477, introduced by Senator Anthony Muse (D – Prince George's County) and Delegate Jheanelle Wilkins (D – Montgomery County), would have codified the option for counties, including Baltimore City, to enact a "good cause" law governing lease renewals and holdover tenancies. This legislation would have prohibited housing providers from declining to renew a lease or terminating a holdover tenancy without demonstrating "good cause." Under the bill, the term "good cause" encompassed ten specific circumstances, including instances such as a tenant committing a substantial breach of the lease, engaging in illegal activities on the property, or consistently failing to pay rent on time despite receiving multiple notices.

Additionally, the bill would have allowed for non-renewal of leases when a landlord seeks to remove the property from the rental market or undertake renovations. Though the bill passed the House, it failed for lack of action in the Senate.

### *High-Rise Buildings – Fire Safety Requirements*

Senator Will Smith and Delegate Lorig Charkoudian (both D – Montgomery County) reintroduced Senate Bill 689/House Bill 823, to enhance fire safety measures in residential rental high-rise buildings. The bill defines "high-rise building" as a structure with seven or more stories above grade level or over 75 feet in height.

Effective July 31, 2025, high-rise buildings must install smoke detectors according to National Fire Protection Association (NFPA) standards. Counties are barred from imposing additional fire safety system upgrades as a condition for issuing smoke detector installation permits. The legislation expands existing law to mandate housing providers to equip rental units with notification devices suitable for alerting deafblind individuals during fire emergencies. It prohibits landlords from charging these individuals for such devices or requiring documentation of their status.

Starting January 1, 2025, owners of high-rise buildings without sprinkler systems must post signage and include a lease provision indicating the absence of sprinklers. The bill also mandates emergency escape lighting consistent with NFPA standards for all common egress routes. The Maryland Department of Housing and Community Development is tasked with identifying funding sources for sprinkler system installation.

Additionally, the bill establishes a Workgroup to Develop Fire Safety Best Practices for Pre-1974 High-Rise Apartment Buildings. This group is tasked with studying fire safety risks, current mitigation strategies, and developing recommendations for improving fire safety in these buildings. Factors to be considered include alternative fire protection systems' availability, feasibility, cost, and disruption duration during installation.

The bill will take effect on June 1, 2024.

### *Maryland Lead Poisoning Compensation Act*

Senator Jill Carter (D – Baltimore City) introduced legislation to establish: (1) that an action against the owner or manager of a property to recover damages related to lead poisoning may be brought at any time; (2) that the owner or manager of a property is strictly liable for compensatory and noneconomic damages caused by lead poisoning arising from lead-based paint hazards on the property; (3) that the statutory limits on noneconomic damages do not apply to these claims; (4) prohibit the State, a local government, or a county school board from raising a defense of sovereign immunity for claims brought under the bill that exceed specified claim limits; and (5) an affirmative defense if the owner or manager of the property complied with specified environmental laws at the time the plaintiff was exposed to lead-based paint hazards on the property. Senate Bill 1031 failed to progress past the initial hearing.

### *Affordable Housing Land Trusts - Authority to Establish Condominium Regimes*

Senator Jeff Waldstreicher (D – Montgomery County) and Delegate Jazz Lewis (D – Prince George's County) introduced Senate Bill 199/House Bill 13, which empowers affordable housing land trusts to acquire and manage residential real property for the purpose of promoting affordable housing. The legislation grants these trusts the authority to acquire property interests, facilitate construction, and undertake property improvements. Furthermore, the bills allow for the execution of affordable housing land trust agreements and enable trusts to engage in various activities related to property sales, leasing, management, maintenance, and preservation. By providing legal mechanisms and resources to affordable housing land trusts, the legislation aims to enhance the availability of affordable housing options and promote community development.

The bill takes effect on October 1, 2024.

### *Asbestos Disclosure*

Senate Bill 46/House Bill 143, introduced by Senator Jeff Waldstreicher and Delegate Linda Foley (both D – Montgomery County), mandates specific disclosures regarding asbestos presence in

condominium units. For initial sales, vendors must include in the notice whether they have knowledge of asbestos presence on the site, its location, abatement history, and dates of abatement. Similarly, for resale by unit owners, purchasers must be informed of asbestos presence, its location, and abatement history during the owner's occupancy. Originally, the bills required similar disclosures from the unit owners' council to purchasers, but these provisions were removed due to concerns about potential liability implications.

The bill takes effect on October 1, 2024.

### ***Electric Vehicle Recharging Equipment Act of 2024***

Senator Ariana Kelly and Delegate Marc Korman (both Ds – Montgomery) introduced Senate Bill 465/House Bill 159: The Electric Vehicle Recharging Equipment Act of 2024. The bill defines "electric vehicle recharging equipment" and mandates homeowners associations to maintain insurance coverage for such equipment while installed. The legislation also expands DHCD's website to include information on the requirements for common ownership communities regarding electric vehicle recharging equipment. Additionally, DHCD will provide details on contractors, insurers, and a point of contact for assistance with related inquiries. The bills further require DHCD to furnish resources for dispute resolution between individuals and common ownership communities.

The bill will become effective on October 1, 2024.

### ***Electric Vehicle Parking Spaces***

Senator Brian Feldman (D – Montgomery County) and Delegate Jen Terrasa (D – Howard County) introduced Senate Bill 695/House Bill 889, which requires the significant renovation of single-family detached houses, duplexes, or town homes, and the construction or significant renovation of multifamily residential buildings, that include a separate garage, carport, or driveway for each residential unit to include (1) one electric vehicle supply equipment (EVSE) installed parking space capable of providing at least Level two charging or (2) one electric vehicle (EV) ready parking space. Additionally, if the construction or significant renovation of housing units did not have separate garages, carports, or driveways for each residential unit, this bill would require the significant renovation to include, for every 25 residential units, at least one common use EVSE-installed parking space. The bills also authorize a county or municipality to require the construction of housing units to include a greater number of EVSE-installed parking spaces or EV-ready parking spaces than required under the bills. Ultimately, both bills failed to progress beyond their initial hearing.

### ***Common Elements – Clean Energy Equipment***

Senator Will Smith and Delegate Lorig Charkoudian (both D – Montgomery County) introduced Senate Bill 206/House Bill 216, which establishes a specific procedure by which the board of directors of a condominium may grant a lease in excess of one year, or a similar interest affecting the common elements of the condominium, for the installation and use of leased "clean energy equipment." The bill defines "clean energy equipment" as electric vehicle recharging equipment,

solar energy equipment, and energy storage systems. Additionally, the bill authorizes the board of directors, by a majority vote, to grant leases in excess of one year for the installation and use of leased clean energy equipment. Finally, the bill establishes that a board of directors may grant such a lease only at a meeting of the board held after at least 30 days' notice to all unit owners of record. It also prohibits a mortgagee or group of mortgagees from overruling a vote to grant an interest in the lease.

The bills take effect October 1, 2024.

### ***Restrictions on Use of Solar Collector System***

Senate Bill 49/House Bill 366, reintroduced by Senator Sarah Elfreth (D – Anne Arundel County) and Delegate Stephanie Smith (D – Baltimore City), sought to amend statutory provisions governing unjustified land-use restrictions for solar collector systems. The bill stipulated that a restriction is unreasonable if it (1) increases installation costs by at least 5% over the initial proposal's projected cost or (2) reduces energy generation by at least 10% below the initial proposal's projected output. Under the bill, owners would have been required to provide satisfactory documentation to the community association demonstrating the restriction's unreasonable nature. The documentation must be prepared by an independent solar panel design specialist certified by the National Board of Certified Energy Practitioners or with experience designing at least thirty solar collector systems in the past three years. Furthermore, while community associations were entitled to restrict solar collector system installations in common areas and establish reasonable limitations on number, size, placement, or installation manner, they were also authorized to install solar collector systems in common areas, regardless of governing documents, provided installation complies with the law. The House bill passed, but its Senate cross file did not advance past their Senate Judicial Proceedings Committee's public hearing.

### ***Common Ownership Communities - Resident Bill of Rights***

Senator Anthony Muse and Delegate Marvin Holmes (both D – Prince George's County) reintroduced Senate Bill 447/House Bill 266 to create a bill of rights for residential owners in a common ownership community (COC). If enacted, the bill would have created certain rights, including but not limited to being designated as a member of a COC when the community makes the residential owner subject to a lien or mandatory assessment. Additionally, the bill would have established rights for residential owners in a COC, including the right to have a copy of the annual budget delivered to the residential owner, the right to be represented by the COC in certain situations, the right to utilize common areas at a reasonable cost, and the right to fair treatment for repayment of debt. Ultimately, the bills failed to progress out of their committees of original jurisdiction.

### ***Condominium and HOA Repair and Rehabilitation Funds***

Senator Anthony Muse and Delegate Marvin Holmes (both D – Prince George's County) also teamed up to reintroduce Senate Bill 446/House Bill 280, which authorizes counties and municipalities to establish local trust funds for repairing or rehabilitating infrastructure in communities governed by the Maryland Condominium Act or the Maryland Homeowners

Association Act. Funding sources could include property taxes from condo or homeowners' associations (HOA) unit owners, additional county or municipal appropriations, gifts or donations, and investment earnings. The funds created could be used for repairing public infrastructure like roads and stormwater management facilities, but not for recreational facilities exclusive to certain members or guests of condos or HOAs. Additionally, the bill requires lot owners in HOAs or unit owners in condos to pay property taxes, with a portion allocated to the fund based on criteria set by the municipality or county. Priority for fund support will be given to condos and HOAs with the greatest infrastructure repair or rehabilitation needs.

The bill will be effective October 1, 2024.

### ***Funding of Reserve Accounts***

Senator Mary Beth Carozza (R – Somerset, Worcester, & Wicomico Counties) and Delegate Marvin Holmes (D – Prince George's County) sponsored Senate Bill 1157/House Bill 281 that would have mandated that a co-op, condo, or HOA deposit reserve account funds on or before the final day of each fiscal year. Under this legislation, the amount of time after an initial reserve study that such entities have to attain the annual reserve funding level would be extended from three to five years. Additionally, the bill expressly mandated that HOAs and condos check the reserve study's accuracy annually. Though the House bill moved to the Senate, neither the Senate bill nor the House bill received a vote in the Senate Judicial Proceedings Committee.

### ***Co-Op Dispute Settlement***

Senator Chris West (R – Baltimore County) and Delegate Anne Healey (D – Prince George's County) reintroduced Senate Bill 15/House Bill 309 to alter the dispute settlement mechanism under the Maryland Cooperative Housing Corporation Act and make other technical and clarifying changes. Highlights of the bill include:

- The written cease and desist demand for the alleged violation must specify, among other existing provisions, a time period of at least 15 days, rather than 10 days, to stop the alleged continuing violation without further sanction;
- The governing body of a cooperative housing corporation must send notices to a member at the address of record, rather than serve the member;
- A member of a co-op has a right to request a hearing to be held by the governing body;
- Notice advising a member of the right to request a hearing must specify the procedure for requesting a hearing and the timeframe for submitting the request, which may not be less than 10 days beginning on the date of the notice; and
- The governing body must give a member at least 10 days written notice of the time and place of any hearing. If the member fails to request a hearing within the timeframe given



in the notice, the governing body, at the following meeting, would have had to assess whether the infringement occurred and whether a sanction is necessary for the violation.

The bill passed and will take effect October 1, 2024.

### ***Regulation of Common Ownership Community Managers***

Delegate Marvin Holmes (D – Prince George’s County) also reintroduced House Bill 273, which aimed to mandate licensing and regulation of COC managers by MDL. The bill proposed the establishment of a state board comprising nine individuals to oversee COC management. It defined COCs as condominiums, homeowners’ associations, and cooperative housing corporations under relevant Maryland laws. Under the bill, COC managers would be subject to licensing and regulatory requirements for providing management services, including executing resolutions, budget preparation, and rights enforcement. Despite initial efforts, the bill failed to progress beyond the House's initial hearing.

### ***Virtual Meetings - Common Ownership Communities***

Delegate Jen Terrasa (D – Howard) presented perennial legislation aimed to enhance requirements for virtual meetings in COCs. House Bill 705 granted authority to the person conducting the virtual meeting, or their designee, to remove disruptive participants. It also mandated that COC virtual meetings adhere to existing applicable meeting regulations.

Under the bill, the person conducting the virtual COC meeting must:

- Ensure all participants have a fair chance to be heard and participate as if the meeting were in person;
- Have the discretion to mute participants during official business, presentations, or to mitigate background noise; and
- Remove participants who disrupt the meeting after a warning, including revoking their ability to unmute.

Additionally, the bill stipulated equal access to meeting materials for all participants during video conferences or comparable electronic methods. COC governing body meetings must generally remain open to the public, with private sessions held only under specific conditions as outlined in existing law.

Despite passing the House, the bill again stalled in the Senate.

### ***Governing Bodies of Common Ownership Communities - Member Training***

Delegate Marvin Holmes (D – Prince George’s County) introduced House Bill 793, which aimed to mandate training for members of governing bodies in COCs. The bill required each board



member or officer of a condominium's unit owners council or HOA to complete a training curriculum on their responsibilities. The training could be developed by:

- A state or local government-recognized common ownership commission;
- An organization approved by a recognized common ownership commission;
- An institution accredited by the Middle States Commission on Higher Education;
- A membership organization offering nationally recognized certification for community managers; or
- A county offering coursework established by its common ownership commission.

Despite passing the House, the bill stalled after the initial public hearing in the Senate Judicial Proceedings Committee.

#### *Voting Threshold to Amend a Condominium Association's Declaration*

Senator Nick Charles (D – Prince George's) and Delegate Jeffrie Long, Jr. (D – Calvert and Prince George's) reintroduced Senate Bill 665/House Bill 1496, which lowers the threshold of unit owners listed on the current roster of a condominium needed to consent to an amendment of the condominium's declaration from 80% to 66 2/3%. Nonetheless, the existing threshold of 80% is still applicable if the developer owns any of the condominium units.

The bill takes effect October 1, 2024.

#### *Agricultural Land - Adversarial Foreign Governments*

Senator Jason Gallion (R – Harford & Cecil Counties) and Delegate Rachel Munoz (R – Anne Arundel County) introduced Senate Bill 392/House Bill 616 to prevent adversarial foreign governments from purchasing, acquiring, leasing, or holding any property interest in Maryland's agricultural land. Additionally, the bills would have empowered the Attorney General to take legal action in order to prevent potential violations of this prohibition. In the end, neither bill advanced beyond their initial hearings.

Delegate Brian Chisholm (R – Anne Arundel) introduced similar legislation, House Bill 885, which would have prohibited a nonresident who is a citizen of the People's Republic of China (PRC), a commercial company or business incorporated in the PRC, or a person working for or connected to the PRC's government from buying Maryland agricultural land and land used for raising livestock. The bill would have also prohibited those same nonresident aliens from taking part in Maryland's agricultural programs that don't govern the production of food or the safety of food. This bill also did not receive a vote after its initial bill hearing.

### *Innovative Housing Fund*

After several years of consideration, the MGA passed Senate Bill 203/House Bill 7, championed by Senator Jeff Waldstreicher and Delegate Vaughn Stewart (both D – Montgomery County) to establish the Montgomery County-inspired Housing Innovation Pilot Program and related special fund within DHCD. The purposes of the pilot program are to (1) create opportunities for the State’s public housing authorities and county governments to increase the volume of housing production and (2) reward counties pursuing innovative solutions to the problem of housing scarcity. For each of fiscal 2026 through 2029, the Governor must include in the annual operating or capital budget bill, an appropriation of \$5.0 million to the new fund, which may be allocated using funding for Rental Housing Works.

The bill takes effect July 1, 2024, and terminates June 30, 2029, and \$10 million was included in the Fiscal Year 2025 Capital Budget to initiate the fund.

### *Housing Opportunities Commission – Publication Requirements*

House Bill 424, a local Montgomery County Delegation bill, repeals the requirement that the Housing Opportunities Commission of Montgomery County (1) hold a public hearing on any assisted family housing it proposes; (2) report in writing the findings and conclusions from the hearing; and (3) give notice of the hearing 15 days prior to the hearing by display advertisement in two newspapers of general circulation in the county. The bill also repeals the requirement that HOC publish a summary of its annual financial report in at least two newspapers of general circulation in the county.

The bill, intended to help streamline and expedite affordable housing production efforts in Montgomery County, passed unanimously in both chambers and takes effect October 1, 2024.

## **GAMING**

### *I-Gaming*

Senator Ron Watson (D – Prince George’s County) and Delegate Vanessa Atterbeary (D – Howard County) jointly introduced legislation aimed at establishing internet gaming, or I-gaming, in Maryland. Senate Bill 565, proposed by Senator Watson, outlined the framework for I-gaming subject to a voter referendum. It empowered the MGA to authorize the State Lottery and Gaming Control Commission (SLGCC) to issue licenses for internet gaming, with specific criteria for eligible applicants and guidelines for permissible forms and conduct of internet gaming. The bill underscored the intent of the MGA that revenues generated from I-gaming be primarily allocated for public education.

Additionally, Senator Ron Watson (D – Prince George’s County) sponsored Senate Bill 603 as a companion implementation bill. This legislation, also contingent on a voter referendum, empowered the SLGCC to license video lottery operators and a limited number of other qualified applicants to conduct and operate internet gaming. The bill detailed the distribution of proceeds

from internet gaming, allocating a portion to regulatory activities, the Problem Gambling Fund, and the majority to the Blueprint for Maryland's Future Fund (BMFF).

In the House, Delegate Vanessa Atterbeary (D – Howard County) introduced House Bill 1319, which shared similar objectives with Senate Bill 565. House Bill 1319, passed by the House in an amended form, proposed authorizing the SLGCC to license qualified applicants for internet gaming, subject to voter approval. It delineated the distribution of proceeds from different forms of internet gaming, with a significant portion allocated to the BMFF after other specified distributions. The bill also established the Video Lottery Facility Employee Displacement Fund administered by MDL, to support video lottery employees affected by the implementation of internet gaming.

Ultimately, despite these efforts, the Senate did not advance any of the proposed I-gaming legislation in the 2024 session. Nonetheless, the potential of I-gaming as a new revenue source is likely to remain under consideration in future sessions.

### *I-Lottery*

Delegate Edith Patterson (D-Charles County), introduced House Bill 1218 which aimed at authorizing the State Lottery and Gaming Control Agency (SLGCA) to establish a system or program enabling individuals to purchase State lottery tickets through internet-connected electronic devices. The bill mandated SLGCA to develop regulations for the implementation of this system. Upon collection of proceeds and after disbursements to lottery winners, agents, and operational expenses, a portion of the remaining funds, starting from July 1, 2025, were to be allocated to the Problem Gambling Fund. Specifically, 1% of the leftover money from the State Lottery Fund, excluding funds from instant ticket lottery machines, was to be deposited into the Problem Gambling Fund. Despite its introduction, House Bill 1218 failed to progress beyond its initial hearing stage and did not advance due to a lack of legislative action.

### *Instant Ticket Lottery Machines*

Senate Bill 1159, introduced by Delegate Eric Ebersole (D – Baltimore County), would have added fraternal organizations to the organizations that SLGCA may issue a license to for up to five instant ticket lottery (pull tab) machines. The bill sought to alter the distribution of proceeds from pull tab sales by veterans' organizations and specified the distribution of proceeds from pull tab sales by fraternal organizations, with the remainder of each being distributed to the Education Trust Fund, after specified distributions. Ultimately, the bill failed to move beyond its initial hearing in the House Ways and Means Committee.

### *VLTs at BWI-Thurgood Marshall Airport*

Delegate Richard Metzgar (R – Baltimore County) reintroduced House Bill 1252 to study the feasibility of authorizing a video lottery operation license for a video lottery facility within Baltimore/Washington International Thurgood Marshall Airport. The study must examine the feasibility of, and any issues relating to, the operation of video lottery terminals at the airport as specified and that the Maryland Aviation Administration (MAA) deems relevant. MAA must

report its findings and recommendations to the MGA by October 1, 2024. As amended and passed, the study will be conducted by the MAA in consultation with the SLGCC.

### *Sports Betting – Independent Evaluators*

Senator Craig Zucker (D – Montgomery County) and Delegate Dalya Attar (D – Baltimore City) reintroduced Senate Bill 1066/House Bill 1291 to require, rather than authorize as specified under Senate Bill 621 which passed in the 2023 Legislative Session, a sports wagering licensee or sports wagering operator that advertises in the State to contract with a licensed independent evaluator to evaluate and rate the sports wagering licensee’s sports wagering content, sports wagering experts, sports wagering influencers, and content partners. The Senate version passed but failed to move in the House.

## **ALCOHOL**

### *Alcohol Delivery*

Senator Alonzo Washington (D – Prince George’s County) and Delegate Vanessa Atterbeary (D – Howard County) reintroduced Senate Bill 456/House Bill 808, which, in its amended form, authorizes individuals holding a local delivery service permit, aged 21 or older, to transport alcoholic beverages from a retail license holder to a purchaser or recipient, also aged 21 or older, within the jurisdiction where the retail license holder operates. However, for such deliveries to be permissible, the retail license holder must be legally permitted to deliver alcoholic beverages under State law. The alcoholic beverages must be supplied in the original sealed containers provided by the manufacturer and can only be sold during the normal business hours of the retail license holder.

Prior to entering into a contract with a retail license holder to deliver alcoholic beverages, the local delivery service permit holder must apply for a delivery service permit from the local licensing board, which carries an annual fee of \$1,000.

The bill outlines penalties for violations, including fines of \$1,000 for the first offense, \$3,000 for the second offense along with a 30-day suspension of the local delivery service permit, \$6,000 for the third offense along with a 60-day suspension of the permit, and subsequent violations leading to the revocation of the local delivery service permit.

Additionally, the Alcohol, Tobacco, and Cannabis Commission is empowered to promulgate regulations and enforce the provisions of this bill. The bill is slated to become effective on July 1, 2024.

### *Alcohol Tax Increase*

Delegate Ben Barnes (D – Prince George’s & Anne Arundel Counties), presented House Bill 1072, which was aimed at raising the sales and use tax on alcoholic beverages from nine percent to ten percent. The bill, however, did not advance beyond the House Ways and Means Committee.

## *Alcohol in Grocery Stores*

Senator Antonio Hayes and Delegate Marlon Amprey (both D – Baltimore City) reintroduced Senate Bill 1139/House Bill 847 to permit food retailers/grocery stores to acquire a Class A license from existing license holders, thus enabling those stores to sell beer and wine. Presently, almost all Maryland grocery stores are barred from selling alcoholic beverages of any type. The Senate bill stalled in the Rules Committee, while the House bill never received a vote in the House Economic Matters Committee.

## **TOBACCO**

### *Tobacco Retail Modernization Act of 2024*

Senator Ben Kramer (D – Montgomery County) and Delegate C.T. Wilson (D – Charles County) presented and passed legislation to tighten regulations on electronic smoking devices (ESDs) and tobacco sales, particularly concerning underage access and sales practices, while also increasing fees and reporting requirements for businesses involved in these sales. The bill makes the following changes to the regulations surrounding the sale of ESDs, tobacco products, and vaping accessories in Maryland:

1. **ESD Sales Restrictions:** ESD can only be sold in Maryland by vape shop vendors through in-person transactions. ESD manufacturers are restricted from direct consumer sales through mail order, online, or other electronic means.
2. **Definitions and Licensing:** Definitions for ESD manufacturer, ESD retailer, and vape shop vendor are revised. ESD manufacturers can only sell to licensed wholesalers, out-of-state wholesalers or retailers where ESD sales are lawful, or licensed vape shop vendors. License fees for retailers and vape shop vendors are increased.
3. **Pharmacy Restrictions:** Pharmacies are prohibited from selling tobacco products, Other Tobacco Products (OTP), or ESD starting October 1, 2025.
4. **Display and Sales Restrictions:** Display of ESD and tobacco products is restricted, except for certain circumstances like premium cigars or FDA-approved tobacco cessation products. Sales to individuals under 21 are prohibited, with verification required for those under 30.
5. **Inspections and Civil Citations:** Mandatory unannounced inspections by MDH are required, and civil citations can be issued for various violations, including underage sales and improper display or sale of ESD and tobacco products.
6. **Criminal Provisions:** Fines for violations are increased, and license suspension or revocation may occur for repeat offenders. Identification verification is emphasized for sales.

7. **Reporting Requirement:** A report on the number and distribution of retailers, proximity to schools and health facilities, and the impact of regulations must be submitted to the MGA by October 1, 2025

The bill takes effect October 1, 2024.

### *Tobacco Tax*

Delegate Ben Barnes (D – Prince George's and Anne Arundel Counties) introduced House Bill 1273, proposing an increase in the tobacco tax rates on cigarettes. The bill aimed to raise the tax per package of 20 cigarettes from \$3.75 to \$4.50 and per cigarette in packages with more than 20 cigarettes from 17.5 cents to 22.5 cents. Additionally, it proposed implementing a one-time floor tax on cigarettes held for sale or consumption in the state, due by September 30, 2024, after an initial hearing in the House Ways and Means Committee. Although the bill did not advance, a similar tax increase was incorporated in the Budget Reconciliation and Financing Act revenue package.

## CANNABIS

### *Straw Ownership-Prohibition*

Delegate Robin Grammer (R – Baltimore County) introduced House Bill 272 aiming to prevent individuals from applying for or holding cannabis licenses or registrations under nominal ownership or without the genuine benefits and responsibilities of ownership or control. This measure specifically targets the practice of utilizing straw ownership to meet the requirements for cannabis licenses, including those for social equity licenses. In essence, the bill seeks to ensure that individuals designated as social equity owners of cannabis licenses genuinely possess ownership rights over those licenses. This bill received unanimous approval from both the Senate and House of Delegates.

It is scheduled to take effect on June 1, 2024.

### *Cannabis Reforms-Alterations*

House Bill 253 was introduced by Delegate C.T. Wilson (D – Charles County) on behalf of the Maryland Cannabis Commission. It primarily serves as a corrective measure for cannabis legislation enacted during the previous session. One of the key revisions in this bill pertains to the advertising regulations for cannabis licensees. Moving forward, these licensees are permitted to use their names and logos when sponsoring events targeted at age-appropriate audiences. Additionally, the bill extends the deadline by one year for standard cannabis dispensaries to deliver medical cannabis to patients with the new sunset date as July 1, 2025. Following amendments, this bill successfully passed. As an emergency bill, it will take effect immediately with the Governor's signature.

### ***Restrictions on Cannabis Licensee Locations***

Senator Brian Feldman (D – Montgomery County) and Delegate C.T. Wilson (D – Charles County) jointly introduced Senate Bill 537/House Bill 805 in response to numerous local jurisdictions imposing stringent limitations on the placement of cannabis licensees, particularly dispensaries. The aim of this legislation is to ensure a more balanced geographic distribution of dispensary licenses across the state and within counties. It achieves this by prohibiting local jurisdictions from imposing zoning requirements on licensed dispensaries that are stricter than those for alcohol retailers. Similarly, it restricts zoning regulations for licensed outdoor cannabis growers in agricultural zones to be no more stringent than those existing for hemp farms as of June 30, 2023. Furthermore, the bill adjusts setback regulations slightly and mandates that dispensaries must be no more than half a mile apart. Lastly, it requires that local jurisdictions grant waivers to dispensaries that were operational before April 1, 2024.

Having passed successfully, this bill will take effect on June 1, 2024.

### ***Cannabis Advertising Prohibition***

Senator Chris West (R – Baltimore County) introduced Senate Bill 399 with the aim of reverting advertising laws for cannabis licensees to their pre-legalization state, thereby granting licensees more freedom in signage, including the use of billboards. The bill received an unfavorable report by the Senate Finance Committee.