

# ***THE WEEKLY WHIP***

WEDNESDAY, APRIL 9, 2008

This session, the legislature made real progress on issues that matter to Marylanders by:

- Making an historic investment in K – 12 and higher education, including over \$300 million for public school construction and renovation;
- Promoting access to affordable healthcare, including help for uninsured kids and seniors struggling with prescription costs;
- Continuing the progress we have made in reducing pollution and restoring the ecosystems of the Chesapeake and Atlantic Coastal Bays;
- Enacting sensible and sweeping mortgage reforms to address the foreclosure crisis being felt in communities across the state;
- Passing a long term plan to bring stability to the energy market, focused on conservation and promoting sustainable energy projects;
- Securing rate relief for BGE customers;
- Enhancing public safety, with a DNA bill that protects individual rights and gives law enforcement officials the tools they need to keep our communities safe.

While making progress on these (and other) issues, the legislature focused on the bottom line, crafting a fiscally responsible budget that includes a repeal of the tech tax and hundreds of millions of dollars in cuts.

## **A FISCALLY RESPONSIBLE BUDGET THAT PROTECTS MARYLAND'S PRIORITIES**

Facing a downturn in the national economy which has slowed state revenue forecasts, the legislature passed a budget which makes necessary cuts while preserving the legislature's commitment to public and higher education, healthcare, the environment and making a \$350 million investment in transportation projects. This session, the legislature cut \$274 million from the general fund and \$532 million from the budget overall, for a total of \$1.1 billion in general fund cuts and nearly \$1.5 billion overall since the beginning of the term. The legislature left a \$235 million fund balance above the Rainy Day Fund – leaving the state with nearly \$1 billion in cash reserves to weather any further slowing in the national economy.

Most importantly, the legislature repealed the tech tax, replacing it with a mix of cuts and a temporary surcharge on Marylanders with more than \$1 million in annual net taxable income. Maryland's tech sector is comprised of 7,549 businesses employing 56,210 people. Tech companies and the broader business community made clear that the tech tax – created by the Senate and passed in the waning hours of the special session – had the potential to undermine the state's robust tech sector. By repealing the tech tax, the legislature ensured one of the industries that forms the core of our knowledge-based economy will continue to flourish in the state.

## **INVESTMENT IN K – 12 AND HIGHER EDUCATION**

*Education Week* ranked Maryland's public schools as the nation's third best, and the state boasts the second highest percentage of high school students in the nation who scored at or above the mastery level on Advanced Placement exams. Maryland public schools are making measurable improvements, and the budget gives teachers, students, administrators and parents the tools they need to continue their progress. Public schools are slated to receive over \$5.3 billion in state aid, an increase of \$182 million over last year. The budget also includes \$76 million to fund the Geographic Cost of Education Index.

Study after study has shown that modern classrooms play a vital role in student achievement. Poor facilities make it more difficult for teachers to be effective and make students less likely to attend class or dropout altogether. Students in inadequate facilities score between 5 and 10 points below their peers in clean and safe classrooms, and the difference in test scores can be as high as seventeen points. Recognizing the importance of clean, healthy and modern classrooms, the legislature invested an additional \$330 million in school construction and renovation, for a total of nearly three quarters of a billion dollars this term.

Coupled with our public school system, Maryland's colleges and universities provide a strong foundation for our knowledge-based economy. We are home to one of the best educated workforces in the nation, which is one reason our economy remains stronger than the nation's as a whole. A well-educated workforce is critical to our economic vitality, yet middle class families still struggle to pay for college. Recognizing the need to keep a degree within reach of all Marylanders, the legislature froze in-state undergraduate tuition for a third year and dedicated resources to the Higher Education Investment Fund to provide additional seats for students in the University System of Maryland. The capital budget also includes a record investment at community colleges around the state.

### **ACCESS TO AFFORDABLE HEALTHCARE**

Billed as way to help seniors cope with rising prices of prescription medicine, Medicare Part D has become an unexpected burden for many beneficiaries because of a problem commonly referred to as "the donut hole." Medicare Part D allows enrollees to choose from private prescription coverage plans which are required to cover the first \$2,510 of prescriptions, including the enrollees' co-payments *and* the costs borne by the insurance companies. Enrollees must cover most of their costs above that amount until they reach \$5,725 in expenses, when Medicare coverage resumes. For many seniors, this means temporarily stopping treatment or picking and choosing between which ailments to treat. The legislature took steps to help seniors facing this choice by passing HB 1492, which creates an innovative public-private partnership with Carefirst. The non-profit company will contribute an additional \$4 million to fill in the donut hole for an estimated 7,500 seniors earning up to 300% of the federal poverty level. The program will expand to 30,000 seniors in coming years.

There are 137,000 uninsured children in Maryland, and 90,000 of them qualify for public health insurance programs today. HB 1391 begins targeted enrollment outreach to families with children that are eligible for assistance. For the first time, the state will gather accurate information on children without health insurance and communicate with their families about options for coverage. The state will mail an application to those eligible for participation in Medicaid or the Maryland Children's Health Insurance Program, and work with those who are not eligible to identify affordable options. This small step will help thousands of families who already qualify for assistance get the help they need to make sure their children have access to healthcare.

### **PROGRESS FOR THE CHESAPEAKE AND ATLANTIC COASTAL BAYS**

This session, the legislature continued to prioritize Chesapeake Bay restoration, strengthening restrictions on development in the Bay's watershed and investing in Bay cleanup. These actions follow several landmark pieces of legislation in previous legislative sessions to stem pollution and strengthen the Bay's ecosystem.

The legislature updated the Critical Areas law for the first time in nearly 25 years to control development in environmentally sensitive areas along the Chesapeake and Atlantic Coastal Bays. Passed in 1984, the law designated land within 1,000 feet of tidal waters and wetlands as "critical areas" and restricted development within these areas. The current 1,000-foot boundary was identified using 1972 state wetland maps that are still used for enforcement and variance allowances by local governments. The legislature took action this year to: (1) give the Critical Area Commission new regulatory authority to strengthen enforcement of the law, (2) provide better protection of water quality and wildlife habitats, (3) establish new procedures for processing variances, and (4) update the wetland maps are used to enforce the law – which has not happened since 1972. The legislation (HB 1253) also requires a 200 foot setback for new subdivisions in especially sensitive areas and enhances penalties for developers who violate the law.

The budget reflects the priority the legislature placed on environmental protection. Through the Chesapeake Bay Restoration Fund, the state will spend \$149 million – an increase of 64% – on nutrient removal, septic system upgrades, and sewer rehabilitation to reduce the amount of nitrogen pollution entering the Bay. The budget includes \$25 million for the Chesapeake Bay 2010 Trust Fund to expedite pollution reduction in the Chesapeake and Atlantic Coastal Bays and Patuxent River, promoting a cleaner and healthier environment for all Marylanders.

### **SENSIBLE AND SWEEPING MORTGAGE REFORM**

As a slowing real estate market creates a drag on the national economy, foreclosures have quickly become a threat to economic stability in every county in the state. The rate of foreclosures grew 38.9% from the third to the fourth quarter of 2007, as 9,722 Maryland households entered the foreclosure process. Notices of mortgage loan default grew by 53.2% in the fourth quarter, notices of foreclosure sales grew by 21.9%, and lender purchases of foreclosed properties grew by 51.3%.

The foreclosure crisis is real for thousands of Maryland homeowners – but the cost of foreclosures goes beyond families losing their homes. In Maryland, the average home sold in foreclosure sells for 18.8% below market value. Each foreclosure on a single-family home reduces property values within 1/8 of a mile by 1%. Foreclosures bring about the potential for increased crime, as vacant and neglected properties become targets for criminal activities. Finally, the lending industry takes a hit from rising foreclosures, with lenders typically losing \$50,000 or more on a single foreclosure.

The legislature passed a package of bills to protect homeowners, including emergency legislation to lengthen the foreclosure process, which will give homeowners an additional opportunity to negotiate with their lenders and save their homes. Billed by *The Washington Post* as “among the most sweeping in the country,” the reform package: (1) improves regulation of the industry and reforms lending practices by banning pre-payment penalties for sub prime loans, assuring a borrower’s ability to repay a loan and verify sources of income, and increasing licensing requirements, (2) creates a mortgage fraud statute that covers all actors engaged in mortgage fraud, (3) bans the conveyance of real property in the foreclosure rescue context, and (4) requires a lender to wait 90 days after default before filing the foreclosure action.

### **A LONG TERM ENERGY PLAN TO STABILIZE RATES**

Maryland is at a critical juncture in energy policy. After facing rate hikes thanks to regulators who were too cozy with industry insiders, the state is facing the prospect of an electricity shortage and rolling blackouts as early as 2011. The state’s problems can be traced to three sources: (1) demand is outpacing supply, (2) the state’s transmission system is inadequate, and (3) the state’s infrastructure is outdated.

Electricity consumption increased 15.7% from 1999 to 2005 in Maryland, while generation increased by 1.9%. Maryland consumers used 63 million megawatts in 2006, while the state generated 49 million. This imbalance resulted in the state importing 30% of its electricity. Our dependency on out-of-state energy is straining our transmission system. The Baltimore-Washington metro area and the Delmarva Peninsula are nationally recognized as areas where higher prices and lower reliability can be traced to transmission congestion – which could lead to blackouts. Finally, Maryland’s electricity generating infrastructure is outdated. The average facility in the state is 30 years old, and only nine new power plants have come on-line in Maryland in the last 15 years. In the last 30 years, no new wind, nuclear or hydroelectric facilities have been built in the state.

Recognizing these challenges, coupled with environmental concerns driving the transition from fossil fuels to sustainable energy, the legislature enacted a comprehensive energy policy designed to stabilize rates while ensuring reliability for consumers. Bills passed this session: (1) create a Strategic Energy Investment Fund to stimulate investments in energy efficient technology and provide short term rate relief, (2) codify the Governor’s initiative to reduce statewide per capita demand 15% by 2015, (3) double the renewable portfolio standard over the next

fourteen years, (4) establish green building standards to improve energy efficiency in public construction projects, and (5) eliminate tax barriers facing residents who want to invest in clean energy systems. Taken together, this package of bills will begin the process of reducing consumption, stabilizing rates, and ensuring a safe and reliable energy supply.

### **RATE RELIEF FOR BGE CUSTOMERS**

Earlier this year, Constellation Energy and the State of Maryland filed lawsuits after the company's decision to terminate its agreement not to challenge the legislature's actions during the 2006 special session. The State's suit asked the court to prevent the company from rescinding more than \$380 million in rate relief. Constellation's suit sought to eliminate nearly \$40 million a year in credits to consumers, which would further destabilize the residential electricity market in the state. The company and the State reached a settlement in March, and the legislature ratified that settlement with HB 1626.

HB 1626 gives consumers nearly \$2 billion in rate relief. The bill provides \$187 million in direct relief in the form of a one-time \$170 refund to 1.1 million Constellation residential ratepayers by December 2008. Based on projected rates for the coming year, this equates to over a 10% reduction on the total annual bill for more than 50% of all BGE customers. The settlement and legislation also eliminate the \$1.5 billion consumer obligation for the cost of decommissioning Calvert Cliffs Nuclear Power Plant, and protect \$346 million of the \$386 million in credits to ratepayers the legislature secured during the 2006 special session.

The settlement reaffirms the priority status of the proposed new nuclear reactor at Calvert Cliffs. Under the terms of the deal, Calvert Cliffs will be Constellation's first choice site should the company move forward on plans for a new nuclear power plant, assuming conditions for selecting a site remain as advantageous in Maryland as they are now. This plant could become a key component in modernizing the state's energy generation system.

### **HIGH TECH TOOLS TO KEEP COMMUNITIES SAFE**

In 1985, Theodore Ronald Reed dragged a woman into the woods, raped her, and cut her throat, leaving her for dead. The victim survived, but the case was cold for 20 years – until a DNA sample from Virginia linked Reed to the crime. He pleaded guilty and was convicted in 2005 and is now serving a 32 year prison sentence. Law enforcement officials concede he never would have been identified without a DNA database.

To enhance law enforcement, the legislature required the collection of DNA samples from offenders who are charged with a crime of violence (such as murder, rape, robbery, or aggravated assault) or felony burglary. The bill (SB 211) gives police officers and prosecutors the tools they need to solve crimes while protecting the privacy of citizens not charged with or convicted of a crime. The bill requires individuals be informed that they have the right to have their sample expunged if the charges are dropped or they are acquitted, and prohibits the use of a DNA sample for genetic comparisons, disclosure of DNA information to unauthorized individuals, and storage of DNA information not directly related to an arrestee's identity.

Collecting DNA samples from offenders can prevent violent crimes. Chicago's *Study on Preventable Crimes* examined the criminal timeline of eight individuals and demonstrated that 60 violent crimes, including 53 murders and rapes, could have been prevented if DNA had been taken during the booking process of suspects charged with violent crime. On the flip side, collecting DNA samples can also exonerate the innocent. To that end, SB 211 also enhances access to post-conviction DNA testing for those who demonstrate that such testing is likely to prove their innocence.