

USGO 2016 MARYLAND LEGISLATIVE REPORT



7/22/2016

Key Results: No Tax Relief or Sick Leave legislation, the veto of an enhanced Renewable Portfolio Standard and the overlay of an election year. Several other utility bills were also in play but none passed.

John Quinn,
with homage to CLW, Jr.

2016 USGO MD General Assembly

EXECUTIVE SUMMARY

The Maryland General Assembly convened its 436th Legislative Session on Wednesday, January 13, 2016, and adjourned Sine Die, or “without a day” at Midnight, Monday, April 11, 2016. Governor Larry Hogan had until May 31 to sign or veto bills that passed the legislature. Note that in Maryland, a bill may be enacted absent the Governor’s signature.

A total of 2,832 bills and resolutions were considered by the legislature in the ninety day 2016 Session.

While the budget was expected to be the focal point of contention between the Governor and Democratic Leadership, it did not turn out to be a major problem as the budget was deliberated upon and approved by the General Assembly with weeks remaining in Session. However, the Legislative Session was not absent of partisan contention mainly as the result of the Governor limiting his participation throughout the Session, which became a point of frustration.

The 2016 Legislative Session ended without a tax relief package supported by Governor Hogan and Senate President Mike Miller, as well as without the passage of the *House Bill 580 Labor and Employment – Maryland Healthy Working Families Act*, also known as Paid Sick Leave, which would have required employers with 15 or more employees to allow an employee to earn one hour of “sick and safe leave” for every 30 hours that the employee works.

Legislation that increased Maryland’s Tier 1 Renewable Energy Requirements (RPS) passed and was later vetoed by the Governor. Along the way, amendments to require long-term PPAs by utilities and a preclusion of large, utility-scale solar were suggested but were not adopted.

An effort to guarantee cost recovery in rates for gas company environmental remediation died on the last day of Session.

2016 Congressional and Local Elections

Due to Maryland’s senior Senator Barbara Mikulski’s impending retirement at the end of the current term, multiple members of Maryland’s Congressional Delegation were actively running for her seat. In a domino effect to back fill the Congressional seats, several key leaders had a distracted focus.

Congressman Chris Van Hollen (Congressional District 8) won the Democratic Senate primary and Anthony Brown, former Lieutenant Governor, won the Democratic Primary for District 8. Additionally, Senator Catherine Pugh (District 40), Senate Majority Leader and a member of the Finance Committee, won the Baltimore City Democratic Mayoral primary.

Priority Legislation

KEY LEGISLATIVE BILLS AND OUTCOMES

STRIDE

Senate Bill 510/House Bill 546 Electric and Gas Companies - Rate Regulation - Infrastructure Investments

Senate Bill 510/House Bill 546 would have facilitated capital investment to modernize the energy delivery infrastructure through creation of a new alternative rate recovery mechanism that would allow for more timely cost recovery for electric and natural gas distribution capital expenditures. It would have amended the current STRIDE law to increase the residential gas customer cap from \$2 to \$4 per month, and create an electric residential customer cap of \$4 per month. The bills did not get voted on.

Senate Bill 162/House Bill 75 Gas Companies - Infrastructure Replacement Projects - Amendment to a Plan

Senate Bill 162 and House Bill 75 successfully passed the Maryland General Assembly. It extends (from 120 days to 150 days), the deadline by which the Commission is required to take a final action to approve or deny any amendment to an approved gas infrastructure replacement plan.

Natural Gas Expansion

Senate Bill 778/House Bill 1324 Public Utilities - Natural Gas Infrastructure Expansion and Reinforcement

Senate Bill 778 and House Bill 1324 would have allowed gas utilities to defer costs and earn a return on the regulatory asset for gas main expansion into county or city Tier 1 or Tier 2 designated growth areas not currently being serviced by natural gas. It would have allowed the costs to be socialized across all service territory customers. Senate Bill 778 and House Bill 1324 died in their respective committee of origin without a vote.

Environmental Remediation

House Bill 571 Gas Companies - Rate Regulation - Environmental Remediation Cost

House Bill 571 failed to pass the General Assembly. As amended, the bill would have authorized the Commission, when setting rates for a gas company, to include all costs reasonably incurred for performing environmental remediation of real property in compliance with state or federal law, regulation or order. Environmental remediation costs would have been included as necessary and proper expenses regardless of whether the real property is currently used and useful in providing gas service or whether the gas company owns the real property when the rate is set. In the final days of Session, a host of amendments were added to the bill on the Senate floor, including the requirement that any approved remediation rate recovery be listed as a surcharge on customers' bills with the address of site remediated specifically listed. Although House Bill 571 successfully passed the House and the Senate Finance Committee, it failed to pass the full Senate and was recommitted to the Finance Committee where no further action was taken.

Vegetation Management

House Bill 435 Electric Companies - Vegetation Management - Local Law, Rule, Regulation, or Other Action

House Bill 435 would have repealed the prohibition against a county or municipal corporation from adopting a local law, rule, regulation or other action that would interfere with or materially increase the cost of an electric company's ability to comply with vegetation management standards. It would have required an electric company to attempt to work out an agreement with a county or municipal corporation. The House Economic Matters Committee voted to defeat the bill (21-0).

House Bill 178 Natural Resources - Roadside Trees - Preservation and Protection

House Bill 178 would have limited maintenance or removal of roadside trees to situations where a hazard was present or where a tree is dead or dying. As introduced, the bill did not contemplate roadside tree maintenance or removals related to electric reliability. The bill sponsor amended the bill to exempt Commission approved utility tree efforts. Due to a number of concerns with the bill by multiple stakeholders, the Natural Resources, Agriculture and Open Space Subcommittee voted to defeat the bill.

Renewable Energy Portfolio Standards (RPS)

Senate Bill 921/House Bill 1106 Clean Energy - Renewable Energy Portfolio Standard Revisions [Senate Bill 921/House Bill 1106](#) (both passed) increases the Tier 1 RPS target to 25% by 2020 from the current 20% by 2022, and the solar carve out to 2.5% by 2020 from the current 2%. The alternative compliance payments (ACPs) for Nonsolar and Solar were reduced. The bills were amended to 1) require the Department of Labor, Licensing and Regulation (DLLR) to study workforce development training needs for the clean energy industry in the state and 2) authorize that the Small, Minority and Women-Owned Businesses Account receive money from the Strategic Energy Investment Fund (SEIF). The bill was vetoed by the Governor.

Smart Meters

House Bill 363 Public Health – Smart Meters – Report on Public Health Impact

House Bill 363 would have required the Commission and the Department of Health and Mental Hygiene to report to the Senate Finance Committee and the House Economic Matters Committee on the public health impact of smart meter deployment in the State. The bill sponsor withdrew the bill prior to it being heard in the House Economic Matters Committee.

House Bill 1354 Gas and Electricity - Smart Meters - Customer Rights and Required Reports and House Bill 1355 Gas and Electricity - Analog Meters - Purchase and Installation

House Bill 1354 would have required a utility company to give prior written notice of the deployment of "smart meters" to each customer in the affected portion of its service territory. It would have prohibited a utility company from imposing any additional fee or charge on a utility customer who chose to refuse installation of a smart meter or requests removal of a smart meter under the bill.

House Bill 1355 would have allowed customers to purchase an analog gas or electric meter, that meets certain performance standards, and have the gas or electric company install the analog meter or have the meter installed by any licensed plumber or electrician, as appropriate. The gas

or electric company would not have been allowed to require the customer to install additional controls or perform or pay for additional tests. The bill would have required the Commission to adopt regulations for customer-owned gas, electric, and combined meters.

The House Economic Matters Committee voted overwhelmingly to defeat House Bill 1354 (21-0) and House Bill 1355 (21-0).

Trademarks

Senate Bill 684/House Bill 1569 Energy Efficiency Programs - Heating, Ventilation, Air Conditioning, and Refrigeration Services

These bills (*both failed*) would have required an affiliate of an electric company to compensate the electric company for the use of a trade name, logo, billing services, mail inserts, advertising, or computer services. Senate Bill 684 unanimously passed the full Senate (46-0); however, it was defeated by the House Economic Matters Committee with an unfavorable vote of 20-2. House Bill 1569 never moved out of the House Rules Committee.

Notification Mandates

Senate Bill 1157 Public Service Company – Easement – Policy and Notice for Performing Work

Senate Bill 1157 failed. The bill, as originally filed, would have required a public service company to give at least two months' notice before performing work in a right-of-way (ROW) if a public service company had not entered the right-of-way within the previous two years. Favorable amendments were offered that would have required a gas company to develop, and file with the Commission, policy and procedures for performing work to remove encumbrances in rights-of way. In the end, the bill was referred back to the Finance Committee where no further action was taken on the bill.

House Bill 128 Public Utilities - Termination of Service to Multifamily Dwelling Unit - Notification to Property Manager

House Bill 128 would have required a public service company to provide notification to the property manager of a multifamily dwelling unit before termination of service to a customer who resides at that multifamily dwelling unit. The bill was amended to narrow the scope and provide that a public service company may only provide notice of termination to a property owner or property manager who enrolls in a service termination notification program established under regulations by the Commission. Additional amendments were adopted that would not have held the property owner or property manager liable for any action taken under the bill and to ensure that the property owner or manager would have had the ability to put a tenant's utility costs in the rent. Although the bill successfully passed the House, the bill sponsor ultimately withdrew the bill prior to a hearing in the Senate.

House Bill 1351 Public Service Companies and Utility Companies - Entering on Property - Notice to Owner

House Bill 1351 would have required a public service company or other utility company to provide notice to a property owner 30 days before entering onto the property for the purpose of construction, maintenance or demolition of plant or other equipment, notwithstanding the existence of an easement or right of way. House Bill 1351 was withdrawn by the bill sponsor prior to the House Economic Matters Committee hearing on the bill.

Other Key Bills

Senate Bill 323/House Bill 610 Greenhouse Gas Emissions Reduction Act – Authorization

Senate Bill 323 and House Bill 610 passed the General Assembly and were signed into law by the Governor. The bills repeal the termination date of the current requirement to reduce greenhouse gas (GHG) emissions by 25% from 2006 levels by 2020 and require the Maryland Department of the Environment (MDE) to develop plans, adopt regulations and implement programs to reduce GHG emissions by 40% from 2006 levels by 2030. The plan is due in three years and must be reaffirmed by the legislature in 6 years. The bills also require the Maryland Commission on Climate Change (MCCC) to oversee an independent academic study of the economic impact of requiring GHG emissions reductions from the manufacturing sector.

Senate Bill 632 Underground Conduit System - Rate Modification Imposed by Local Jurisdiction - Notice, Hearing, and Appeal

Senate Bill 632 would have provided for public input through hearings and appeals concerning utility rate hikes imposed as a result of an action of a local jurisdiction. The bill would have set up an appeal process with the Commission to force a local jurisdiction to justify the cost if it is to be socialized among all ratepayers and not just those of the local jurisdiction in which increased the utility rate. The Senate Finance Committee never acted on Senate Bill 632.

Senate Bill 1075/House Bill 927 Public Service Commission - Electric Affordability Program – Study

Senate Bill 1075/House Bill 927 (*both failed*) would have required the Commission to study and make recommendations about the advisability of establishing an opt-in electric affordability program for customers of investor owned utilities in Maryland based on the offer of multiple-year contracts for electricity at a fixed price per kilowatt-hour, etc. While not explicit in the bill language, these bills were designed to be vehicles to establish a “preferred supplier” in Maryland. Both Senate Bill 1075 and House Bill 927 failed to pass the full Senate.

Senate Bill 811/House Bill 440 Electric Companies - Installation of Solar Electric Generating Facility - Completion of Interconnection

Senate Bill 811 and House Bill 440 (*both passed*) require an electric company to complete interconnection of a customer-generator’s solar electric generating facility within 20 business days after receiving notice of the completion of the installation. As amended, both bills require that 90% of the interconnections, on an annual basis, meet the installation timeframe and provide the Commission with authority to issue a temporary waiver from the timeframe when presented with good cause.

Senate Bill 1131 Electric Cooperatives – Rate Regulation – Fixed Charges for Distribution System Costs

This bill (*failed*) would have allowed electric cooperatives to collect more of their fixed costs via a fixed charge instead of a volumetric charge. The bill would have expressly limited increases to the fixed charge to 25% over the prior year. Under the bill, the Commission would have retained full authority over the total electric rates for the cooperatives. The Commission raised concerns that the bill would have prohibited the Commission from applying gradualism even evaluating the fixed charged and that it would have reduced incentives for customers to conserve energy

and invest in energy efficiency. The Senate Finance Committee took no action on Senate Bill 1131.

House Bill 229 Commercial Motor Vehicles - Operation - Transportation Emergencies

Introduced at the request of the Maryland Department of Transportation (MDOT), House Bill 229 authorizes MDOT to temporarily waive certain safety regulations for commercial motor vehicles in intrastate travel to facilitate emergency relief efforts related to essential services. Essential services means: electric service, medical care, sewer water service, telecommunications service or telecommunications transmission. Amendment language strengthened the bill by broadening the definition of essential service to include “natural gas” was adopted. House Bill 229 successfully passed the General Assembly.

House Bill 295 Electricity - Explanation of Bill Charges

House Bill 295 would have required an electric company to include in its customer bill an explanation of each charge listed, with specific explanations required: uniform charge, a charge based-on customer class, a charge based on usage, etc. House Economic Matters Committee voted to defeat House Bill 295 (19-3).

House Bill 948 Public Service Commission – Utility Customers – Carbon Footprint

House Bill 948 would have required the Commission to develop a methodology to calculate the carbon footprint for each customer and to require a utility company to include the customer’s carbon footprint in the customer’s monthly bill. One amendment offered would have removed the obligation of the Commission to develop a carbon footprint calculator, as well as the obligation that utilities provide the customer carbon calculation on the monthly bill. The House Economic Matters Committee unanimously voted to defeat House Bill 948 (21-0).

House Bill 1118 Public Utilities - Utility Supplier Diversity - Data Submission and Task Force

This bill would have required a public service company that is a signatory of the Model Utility Supplier Memorandum of Understanding (MOU) to submit previous year diverse supplier spending data to the Commission before a rate change could be approved. The bill was unnecessary as its objective is achieved under the existing oversight and authority of the Commission but emphasized its commitment to a 25% diverse supplier goal. The House Economic Matters Committee voted to defeat the bill (21-0).

The State of Maryland Legislative Process (How a Bill Becomes Law)

In General

The General Assembly consists of 47 Senators and 141 Delegates. The Senate of Maryland is presided over by the President of the Senate and currently is organized into four primary standing committees. The House of Delegates is presided over by the Speaker of the House and currently is organized into six primary standing committees. Note that the rules of the House and Senate specify additional standing committees, including the Senate Rules Committee and the House Rules and Executive Nominations Committee, to which bills occasionally are assigned.

Each bill introduced into the General Assembly must be sponsored by a member of the General Assembly and assigned to a standing committee. A bill sponsored by a Delegate is initially presented in the House of Delegates, and a bill sponsored by a Senator is initially presented in the Senate of Maryland. The place where a bill is initially presented is referred to as the bill's "house of origin."

House of Origin

First Reading

When the House or Senate convenes, the reading clerk reads the bill number, title, and committee assignment of each bill introduced into that day's proceedings. This is the first of three readings given the bill in the house of origin, as required by Article III, § 27 of the Maryland Constitution.

At this time, the officially introduced typed copy is printed by the legislative print shop. This printing of a bill is the first of several possible printings and is known by its technical name, the "first reading file bill" or "first reader."

Second Reading

The next step in the passage of a bill is second reading and floor consideration. A first reading file bill is reported to the floor of the house of origin by the committee to which it was assigned. The report may be favorable,

unfavorable, or with no recommendation. If favorable, it may be with or without committee amendments. If there are committee amendments, they are presented and considered at this time. The members of the house of origin may vote that the committee amendments be adopted or rejected, either in whole or in part. Following action on the committee amendments, the bill and the committee amendments are open to amendment from individual members on the floor. When the floor amendments have been voted on and no more are offered, the bill is ordered printed for third reading. All of this activity, which may occur over the course of several days, comprises the second reading of the bill.

Committee Reprints

On occasion, after a bill is assigned to a committee, the committee may propose extensive amendments to it and then want to see how the bill would appear with the amendments incorporated into it. In this case, the committee chair, with the approval of the presiding officer, orders the bill reprinted with the proposed committee amendments. These bills are identified by the words “Committee Reprint” printed at the top of the first page of the bill. Generally, committee reprints are prepared using a different color of paper to further distinguish them from other bills. With the exception of the operating and capital budget bills considered on second reading and committee reprints of House bills being considered in the House of Delegates, a “Committee Reprint” is for working purposes only and has no official status as a bill. Unless the Committee Reprint has official bill status, amendments may not be drafted to it.

Third Reading

After a bill has been ordered printed for third reading, it is brought back to the Department of Legislative Services for the insertion of any adopted amendments and is reprinted. This printing, referred to as a “third reading file bill” or “third reader,” incorporates any amendments adopted by the house of origin. A “third reading file bill” will indicate, just below the sponsor and committee assignment information at the top of the bill, the committee and floor action taken on the bill. The bill is then returned to the house of origin on another “legislative” day, placed on the third reading calendar, and a vote is taken simply to pass or reject the bill. (Late in the session, the rules may be suspended to permit a third reading vote immediately after the second reading vote.) No amendments may be presented at this stage and, in order to pass, the bill must receive the affirmative vote of a majority (or three-fifths for an emergency measure or a proposed Constitutional amendment) of the elected membership. This vote constitutes the

third reading of the bill. If the bill passes on third reading, it is sent to the opposite house.

Bill As Printed for Third Reading

On occasion, a bill that has been printed for third reading will be removed from the third reading calendar by the appropriate motion and placed on the second reading calendar so that additional amendments may be considered. The “third reading file bill” that had been printed for consideration on the third reading calendar is still the printing before the body. However, since the bill now has been removed from the third reading calendar, it cannot be referred to as the “third reading file bill.” Instead, it is given the technical name, the “bill as printed for third reading.” If the proposed amendments are adopted, the bill must be reprinted incorporating the adopted amendments, and again placed on the third reading calendar for a final vote. If the amendments are rejected, then the “bill as printed for third reading” again becomes the “third reading file bill” and is placed back on the third reading calendar. If the bill passes on third reading, it is sent to the opposite house.

Opposite House

First Reading

When the “third reading file bill” arrives in the opposite house, it receives three readings just as in the house of origin, again as required by the Maryland Constitution. However, on all of its readings in the opposite house, the bill considered is the “third reading file bill” which retains the bill number assigned to it in the house of origin. The “third reading file bill” is assigned to a standing committee in the opposite house by the presiding officer. The reading clerk then reads the bill number, title of the bill, and its committee assignment.

Second Reading

When the “third reading file bill” has been considered by the committee to which it was assigned, it is placed on the second reading calendar and reported in the same manner as in the house of origin. Unlike the house of origin, the opposite house may amend the “third reading file bill” on both its second and third readings.

Third Reading

When the committee amendments, if any, and the floor amendments, if any, have been considered, the “third reading file bill” with its amendments is placed on the third reading calendar and adopted or rejected as in the house of origin. As a rule, because of time limitations, there is no reprinting of the “third reading file bill” in the opposite house for the consideration of the members on the third reading vote. (Late in the session, the rules may be suspended to permit a third reading vote immediately after the second reading vote.)

If no amendments are adopted by the opposite house, the “third reading file bill,” after being passed in the opposite house, is sent to the Governor for approval or veto.

Concurrence Votes and Conference Committees

If the opposite house adopts amendments to the “third reading file bill,” the bill must be returned to the house of origin for the sole purpose of permitting that house to accept or reject the amendments appended to the bill by the opposite house. If the house of origin refuses to accept or concur in the amendments of the opposite house and the opposite house refuses to recede from its insistence that the amendments be made, a conference committee composed of three members from each house may be appointed by the presiding officers. The conference committee meets and attempts to resolve the differences and reach a compromise. It makes recommendations concerning the adoption or rejection of amendments adopted in the opposite house, and may suggest further conference committee amendments necessary to make the bill acceptable to both houses. If the conference committee resolves the differences, it issues a conference committee report incorporating its recommendations. The conference committee report may not be amended by either house. If the conference committee report is adopted by both houses, the bill is passed, reprinted if necessary to incorporate any adopted conference committee amendments, and sent to the Governor. If a conference committee is not appointed, or if the report of the conference committee is not adopted, the bill fails.

Enrollment and Recall

The bill sent to the Governor must reflect the amendments adopted by both the Senate and the House of Delegates. Therefore, a printing of the bill is prepared that incorporates the amendments attached by both houses. This printing of the bill is known as the “enrolled bill.” On rare occasions, a bill passed by the General Assembly and sent to the Governor will be recalled from the Governor’s desk in

order to consider further amendments. In these instances, if the “enrolled bill” is recalled and amendments to it are adopted, it is reprinted to incorporate these amendments and becomes known as the “re-enrolled bill.” The “re-enrolled bill” is then sent to the Governor.

Special Sessions

Under Article II, § 16 of the Maryland Constitution, the Governor may convene a special session of the General Assembly “on extraordinary occasions.” A special session convened by proclamation of the Governor is limited to 30 days and cannot be extended (Maryland Constitution, Article III, § 15(1)). A proclamation by the Governor of a special session for a particular reason cannot limit the subject matter of legislation introduced at the special session, and bills on any subject may be requested, introduced, and considered by the General Assembly. However, recent practice has been to refer any legislation not related to the reason for the special session to the rules committee of each house of the General Assembly where the legislation typically has died.

Since committee involvement in the enactment of legislation is not mandated by the Maryland Constitution, a standing committee may consider and approve legislation referred to the committee either before or after a special session begins.

Special sessions that have been convened in recent years, and the primary topics of each special session, are listed below:

2004	Medical Professional Liability Insurance; Malpractice Actions
2006.....	Sexual Offenders; Electric Industry Restructuring
2007...	Tax Reform; Gaming; Transportation Funding; Health Care Coverage
2011.....	Congressional Redistricting
2012 – First Special Session	Budget Reconciliation; Taxation
2012 – Second Special Session	Gaming Expansion

For a discussion of effective dates for bills introduced during a special session, *see* p. 138, “Effective Dates for Special Session Legislation.”

LEGISLATIVE PROCESS

