

# House of Representatives

## *Week in Review*

For the Week Ending: Friday, July 2, 2010

### News Items From the House

- **House Republicans Oppose New State Budget to No Avail**

Containing a \$214 million increase, the state's new operating budget cleared the General Assembly but not without opposition.

The \$3.305 billion spending plan – an increase of 6.46-percent over the one it replaced – was approved by the Senate, 17 to 4, and the State House on a vote of 27-to-13. All of the dissenting votes in the House were cast by Republicans.

In remarks made before the House vote, State House Minority Leader Dick Cathcart (R-Middletown) told his colleagues that he believes they missed opportunities to cut spending. "If there was ever a year to be frugal, this was the year. We didn't take advantage of that and I believe we're going to pay for it next year."

Responding to Cathcart, State House Majority Leader Pete Schwartzkopf (D-Rehoboth Beach) called the budget a bipartisan product. "We have missed some opportunities, that's for sure. But it's on all of us in this room," he said.

Democrats outnumber Republicans on the budget-writing Joint Finance Committee, 8 to 4, and also enjoy significant majorities in both the House and Senate chambers. In the Senate, Democrats occupy 15 of the 21 seats. In the House, Democrats have a 24 to 17 advantage.

Unlike the capital budget and Grants-in-Aid Bill, which require super-majorities for approval, the operating budget needs only a simple majority for passage.

Both Rep. Cathcart and State House Minority Whip Dan Short (R-Seaford) said this was the first year they can remember where there were no meetings of the so-called Big Head Committee – an informal group of two elected officials from each of the General Assembly's four caucuses that meets with the governor and his staff to discuss budgetary and fiscal issues. Cathcart said the group is unique because all four political caucuses have equal representation at the table.

He said no satisfactory explanation was given for why the process was abandoned this year.

Citing the struggling economy, Rep. Cathcart said this was not the year to dramatically increase spending. He also noted the new budget uses nearly \$124 million in federal stimulus money – temporary funding that is not expected to be available next year.

Rep. Cathcart took exception with legislative budget-writers who touted steps they took to cut costs. While he applauded those moves, he said they don't obscure the fact that overall state spending increased significantly. "I don't see how anybody can stand here with a straight face and say that the budget increased by 6.5 percent, but that we cut back," Rep. Cathcart said.

Rep. Cathcart, who once co-chaired the Joint Finance Committee, said he appreciates the challenges of crafting a budget and understands that there are inflationary factors that must be factored into the start of any new budgetary process. "But when those costs increase, we should be going back through the budget and finding ways to cover those (expenses) within ... our current means," he said. "I know how difficult it is for the members to make some of these votes. I'm not disputing that. What I'm saying is we missed an opportunity to cut state government and make our life a heck of a lot easier next year when we're going to have another situation where there's going to be a revenue shortfall."

State Rep. Greg Lavelle (R-Sharples) echoed Cathcart's observations. "We do have this built-in deficit going into next year," said State Rep. Greg Lavelle (R-Sharples). "We have a 6.5 percent budget growth and only a 3.1 percent revenue growth, so we're working with borrowed dollars and that's an issue that's going to have to be dealt with next year."

State Rep. Deborah Hudson (R-Fairthorne), who was among the 13 House members voting against the budget, noted that no attempt was made to begin reversing the \$212 million package of tax and fee increases the General Assembly enacted in 2010. "I remember last year all the anxiety we had about raising taxes. ... I was disappointed there were no discussions to provide some relief to those citizens."

Citing issues of fairness and effectiveness, as well as revenue that fell far short of expectations, Rep. Hudson sponsored a bill to eliminate the so-called state "death tax." The estate tax had been phased out in Delaware in 2005, but was reinstated last year as part of the tax and fee package. The bill died in the House without a vote.

- **State Enacts New, Larger Spending Plans**

Depending on your perspective, the recent enactment of a new Delaware state operating budget was either good news or bad.

The good news is that Delaware avoided the fate of states like California and New York in adopting a balanced budget in time for the start of the new fiscal year that began July 1<sup>st</sup>.

The bad news is that the \$3.305 spending plan is nearly \$214 million higher than the one it replaces.

Representing a spending increase of 6.46-percent, the new budget was signed into law by Gov. Jack Markell during a brief July 1st ceremony at 3 a.m. in his Legislative Hall office.

In prepared remarks released earlier, State Rep. Dennis P. Williams (D-Wilmington North), the co-chair of the budget-writing Joint Finance Committee, called the higher spending “inevitable,” citing a \$35 million expenditure to restore a 2.5 percent state employee pay cut as one of the items driving costs up. State employees had absorbed the cut last year as part of a plan to bridge a large state revenue shortfall.

Rep. Williams also cited the loss of \$105 million in federal stimulus funds that the state had to replace with money from Delaware taxpayers.

Some state lawmakers are displeased the new state budget continues to rely on federal stimulus – funding that is not expected to be available next year. The new budget uses \$123.5 million of the temporary funds to balance the books, creating what critics, like State Rep. Greg Lavelle (R-Sharples), say is a “built-in deficit” that state officials will have to deal with next year when the money runs out.

Stimulus funds are not the only point of disagreement in the new budget. Although the Markell administration continues to claim that 525 state positions were eliminated last year by not replacing workers who retired or otherwise left state service – a reduction the governor brokered with House Republicans – there are lingering questions about whether all the promised cuts actually took place.

While debating the spending bill earlier in the evening on the House floor, Rep. Lavelle compared figures contained in the expiring FY 2010 budget to the FY 2011 plan. He said the new budget authorizes 31,027 state positions – just 320 fewer state jobs than the 31,347 positions in budget it replaced.

At \$1.044 billion the expenditure for public education is the biggest single item in the budget – nearly a third of total spending. Another \$891.6 million is

earmarked for the Department of Health and Social services. Together, the two segments account for almost 59 cents of every dollar spent.

Also enacted in the early morning hours of July 1<sup>st</sup> was the state's new capital budget or "Bond Bill," so dubbed because it is largely financed with borrowed money raised through the sale of state bonds. The \$389.7 million measure is almost 37 percent higher than the preceding plan and includes nearly \$141 million for road and transportation projects.

Major line items in the new Bond Bill include \$19.2 million for ongoing construction of the new Kent Count Courthouse complex; \$30.4 million for the Delaware Strategic Fund (used lure new businesses to the state); \$10.1 million for improvements at the Port of Wilmington; and \$102.3 million for school construction statewide.

The last of the "money bills," the Grants-in-Aid bill, contains \$35.2 million to help dozens of non-profit organizations serving Delawareans. Volunteer fire companies will receive \$4.2 million under the bill; paramedic operations will get \$8.85 million; and 44 senior centers around the state have been awarded grants totaling nearly \$6.6 million.

## • **General Assembly Acts to Allow Use of Some Mobile Two-Way Radios**

In the closing days of the 2010 legislative session, lawmakers took quick action to exempt some mobile two-way radios from a pending law that would have barred their use by motorists.

Legislation recently signed into law by the governor (HS 1 for HB 229) will prohibit Delaware drivers from using hand-held cell phones or other electronic devices to hold conversations, send text-messages, or access the Internet. The legislation will also outlaw the use of two-way radios in moving vehicles.

A bill (HB 494 w/ HA1) sponsored by State Rep. Ruth Briggs King (R-Georgetown) carves out an exemption from the radio ban for "FCC-licensed amateur radio operators."

"I tried to amend the original bill to address this, but it failed on a vote of 19 to 20," Rep. King said. "I know these men and women perform a really important public service especially in times of crisis, such as the severe storms we had this past winter. The second time around, more legislators had a better handle on this issue and the measure passed. I was really glad to get this done."

State House Majority Leader Pete Schwartzkopf (D-Rehoboth Beach) successfully sponsored a complimentary measure (HB 493) to exempt two-way radios used by delivery and service trucks as well as those utilized by state workers. Rep. Schwartzkopf said while police and first responders were excluded from the original ban, he was embarrassed to admit that he forgot transportation workers and others still use the dated, but proven, technology.

The owners and operators of Citizens' Band (CB) radios, however, are out of luck. After the ban on mobile devices takes effect in early 2011, drivers using CBs, hand-held cell phones, and personal digital assistants (PDAs) will face penalties. First-time offenders will be hit with a \$50 fine, while repeat violators will face a penalty of between \$100 and \$200.

Delaware will be breaking new ground when the law is implemented. No other state in the country prohibits motorists from using CB radios installed in their vehicles.

On the issue of hand-held cell phones, the First State will actually be the seventh state to enforce the prohibition on motorists. It's already illegal for drivers to use the devices in California, Connecticut, New Jersey, New York, Oregon and Washington, as it is in the Delaware municipalities of Wilmington and Elsmere.

Additionally, 25 states have enacted laws prohibiting texting while driving.

Supporters of the Delaware law point to the increased distraction caused by cell phone use and the hazard impaired drivers posed to their fellow motorists and pedestrians.

Last year, the National Safety Council (NSC) called for motorists to stop using cell phones and messaging devices while driving. Additionally, the NSC urged governors and legislators in all 50 states to enact laws banning it. Janet Froetscher, president and CEO of the NSC, noted that some studies show talking on a cell phone puts drivers at a four times greater risk of a crash.

Gov. Jack Markell signed all three bills into law at a ceremony July 6<sup>th</sup> at the AAA Mid-Atlantic headquarters in Wilmington.

## ***Around the Hall*** ***(Briefs from Legislative Hall)***

### **Nine "Bradley Bills" Signed Into Law**

Nine bills motivated by the victimization of more than 100 children by accused pedophile and former pediatrician Earl Bradley are now law in Delaware.

In a somber ceremony on the east steps of Legislative Hall, Governor Jack Markell signed the measures into law in the company of Attorney General Beau Biden, as well as dozens of state legislators, police officers and state agency officials. Resulting from two separate probes into why the alleged sexual assaults did not come to the attention of authorities sooner, the bills are intended to correct failures in state laws and procedures. "The crimes that Earl Bradley is charged with are unforgivable and incomprehensible," Gov. Markell said. "After the arrest it was clear that we needed to ask difficult questions about how this happened and get real answers back on how to better protect our children. These laws are a result of those answers." State Rep. Ruth Briggs King (R-Georgetown), who numbers many of the victims and their families among her constituents, was part of a broad, bipartisan coalition that quickly passed the bills through the legislature. "We cannot undo the horrible crimes that have been committed," Rep. King said. "I believe these bills are among the most important laws we'll enact this year because they will provide increased communication that'll help ensure that those responsible for these types of despicable acts in the future are exposed as early as possible."

## Carey Leaves Legislative Hall for the Last Time

During his 26 years in office, State Rep. V. George Carey (R-Milford) has earned a reputation for doing things in his own distinctive fashion. The final night the retiring Sussex County lawmaker spent at Legislative Hall was no exception. By need and tradition, the General Assembly always works past midnight on June 30<sup>th</sup> – often well into the early morning hours of July 1<sup>st</sup>. But Carey told his colleagues he would not stay beyond 12:30 a.m. True to his word, when the appointed time arrived Carey stood at his desk, made some brief parting comments, and left the chamber to the applause of his fellow House members. Carey was likely home in bed by the time Speaker of the House Bob Gilligan (D-Sherwood Park) dropped the gavel closing the 2010 legislative session at 2 a.m.

## Action on Bills\*

**Senate Bill 316 w/ SA 2** – (Sponsors: Sen. Peterson & Rep. D.E. Williams, et. al.) – This bill seeks to encourage the use of "ground mounted" solar energy systems by Delaware homeowners. The bill bars developers, homeowner associations or local governments from taking steps to prohibit the systems. However, restrictions put into place before this legislation is enacted would still be binding. Supporters say the bill would continue to allow local entities to set conditions on the installation of such systems, such as requirements to conceal their placement. The measure is similar to laws enacted last year that barred local restrictions on the installation of residential wind turbines and roof-mounted solar panels.

**Status: Passed the General Assembly. Pending consideration of the governor.**

**House Bill 276 (as amended)** – (Sponsors: Rep. Hudson, et. al.) – This bill would jack up penalties for anyone found guilty of damaging, littering, or applying graffiti along a “scenic and historical highway” or a “scenic byway.” Such individuals would face a mandatory \$500 fine in addition to the penalties ordinarily carried by such crimes. Supporters say the officially designated routes have unique scenic, historic and cultural qualities that make them worthy of the additional protection.

**Status: Passed the General Assembly. Pending consideration of the governor.**

**House Bill 437 (as amended)** – (Sponsors: Rep. Ruth Briggs King, et. al.) – This bill will allow active duty U.S. military personnel to get a Delaware hunting, trapping, or fishing license for the same cost as a state resident.

**Status: Passed the General Assembly. Pending consideration of the governor.**

**House Bill 326 (as amended)** – (Sponsors: Rep. Schwartzkopf, et. al.) – This bill would allow the victims of sexual abuse (or their parents/ guardians) to bring lawsuits against doctors, nurses or other healthcare providers thought to have perpetrated the abuse, regardless of when the alleged acts took place. The measure would also create a two-year “look-back” window, allowing victims in some cases to file lawsuits against their abusers, even though the statute of limitations may have already tolled. An amendment by State Rep. Greg Lavelle, removing a legal protection that prevents the State of Delaware from being sued in most instances, was defeated. Rep. Lavelle argued that state institutions should be on a level playing field with the rest of society and should not be shielded from civil action brought by the victims of sexual abuse. The bill is a reaction to pending criminal charges against Dr. Earl Bradley, a former Lewes pediatrician who authorities believe is responsible for sexual assaults committed against more than 100 of his young patients. This bill is in addition to the package of nine “Bradley bills” that were recently signed into law (see related photo brief).

**Status: Passed the General Assembly. Pending consideration of the governor.**

**House Bill 172 (as amended)** – (Sponsors: Rep. Ramone, et. al.) – This bill will require state elected officials, as well as candidates for those offices, to disclose every non-profit organization, civic association, community association, foundation, maintenance organization, or trade group on which the person is a council member or board member. The requirement does not apply to religious organizations.

**Status: Passed the General Assembly. Pending consideration of the governor.**

\*partial list