

2009 GENERAL ASSEMBLY SESSION: WORKING FAMILIES WIN SOME, LOSE SOME

The 2009 session marks improvement over the 2008 session, but lawmakers in this bluest of blue states must do better next year -- the election year

The 2009 legislative session, which concluded on Monday, was better for working families than the disappointing 2008 session. But that is not good enough. Working families are taking it on the chin during the worst economic slump since 1929. Marylanders naturally expect our lawmakers in this bluest of blue states to respond with a sense of urgency to the crisis facing working families. Gov. O'Malley gets it – that's why he supported the pro-worker bills described below. But not enough members of the General Assembly get it – that's why they killed more than half these bills (and watered down many of the others).

Here is the good, the bad, and the ugly of the 2009 legislative session...

The Good

- Preserving Most Vital Government Programs. The session started amidst fears that the economic downturn and resulting steep decline in tax revenue would oblige lawmakers to make deep cuts in the budget. But early in the session, President Obama sent \$1.5 billion in federal stimulus money to the Maryland state government, which helped state lawmakers avoid deep budget cuts, notably in public education and health care. *Thanks President Obama!*
- Combating Workplace Fraud/Misclassification of Employees: Too many employers evade payroll taxes and workplace safety regulations by fraudulently misclassifying employees as "independent contractors". Gov. O'Malley and Del. Cheryl Glenn submitted legislation to crack down on this type of fraud and thereby recoup for state government many millions of dollars in payroll taxes and restore workplace protections to many thousands of workers statewide. Despite ferocious opposition from big special interests, PM and allies succeeded in passing the bill, which the Governor will shortly sign it into law. For the first time in Maryland, misclassification of employees *per se* will be a violation of the law. Next year, PM and allies will work to strengthen the new law's enforcement provisions.
- Fair Share Act. For many years, the American Federation of State, County, and Municipal Employees (AFSCME) has bargained for decent pay and working conditions on behalf of state workers. Yet some of the state employees who benefit from AFSCME's bargaining do not belong to AFSCME and pay no union dues to AFSCME. The Fair Share bill, which passed on the final day of the session and will soon be signed into law, authorizes AFSCME to negotiate and

collect a “fair share” fee from non-members who benefit from union representation. This will make AFSCME an even stronger bargaining agent for state workers, many of whom deserve a raise.

- Skills Training for Youth Through Apprenticeship Opportunity: The Apprenticeship Opportunity Act, sponsored by Del. Roger Manno and Sen. Joan Carter Conway, passed the General Assembly and Gov. O’Malley will soon sign it into law. The Act will require most contractors on large State public works projects to participate in approved apprenticeship training programs for craft labor trades employed on such projects; alternatively, firms can opt to make payments into a new State Apprenticeship Training Fund. The Act will create valuable skill training and good-paying employment opportunities for Maryland youth, promote needed workforce development in Maryland’s construction industry, and improve project delivery for public works contracts.
- A Blueprint for Quality Pre-K: A mountain of research shows that a person’s learning potential is strongly shaped early in life because 90% of brain growth occurs before the age of five. It is therefore vital that children younger than five grow up in a learning-rich environment. Unfortunately, thousands of Maryland families whose breadwinners work full-time cannot afford quality pre-K for their kids. Del. Tom Hucker and Sen. Nancy King sponsored legislation to ensure that Maryland has a comprehensive blueprint to create more high-quality pre-K for four-year olds. President Obama is expected to make pre-K a major priority of his Administration, but would probably only grant federal funds to states with a good blueprint for delivering high-quality pre-K. PM was proud to assist the Maryland Committee for Children in passing this bill through the General Assembly.

The Bad

Lawmakers rejected these common-sense, pro-working family bills:

- Rest Break for Workers. Del. Roger Manno on the House side and Senators Rob Garagiola and David Harrington on the Senate side sponsored a bill to require employers to provide a 15 minute rest break if an employee works up to six consecutive hours and a 30 minute rest break if any employee works more than 6 consecutive hours. Small businesses would be exempt. Who could oppose such a common-sense bill? The Maryland General Assembly, that’s who. The bill did not even make it out of committee!
- Overtime Pay for Long Shifts. Under federal law, a worker gets overtime pay for each hour worked beyond 40 in a week. But too many employers avoid this law by keeping an employee’s weekly hours below 40 yet making that same employee work shifts longer than eight hours per day. Del. Brian Feldman and Sen. Doug Peters sponsored a bill to close this loophole. But the bill never even got a committee vote!

- Better Enforcement of Prevailing Wage Law: Decades ago, Maryland followed the lead of the federal government and dozens of other states by enacting a prevailing wage law to ensure that workers on state-funded construction projects get paid a decent wage. But too many employers simply ignore the law because they know the state lacks enough inspectors to enforce it. Sen. Joan Carter Conway and Del. Aisha Braveboy sponsored a bill to combat this abuse -- NOT by hiring inspectors (which would necessitate more state spending at a time of a budget deficit) but instead by strengthening enforcement through bigger employee back pay awards in cases of violation and other effective private enforcement. Both chambers passed versions of the bill late in the session, but leadership failed to make it enough of a priority to iron out differences before the session's adjournment.
- Re-regulation of Maryland's Electricity System As monopolist BGE gouges ratepayers in metro Baltimore and monopolist Pepco gouges ratepayers at the DC end of the state, there are very few Marylanders who still believe that electricity deregulation, enacted in back 1999, is a good idea. Except, that is, in the House of Delegates, which killed a Senate-passed bill to require that most future electricity plants be put under regulation.

The Ugly

When the good bills above died, it made progressives mad. When the good bills below died, the ugly spectacle made us scratch – and shake – our heads:

- Clean Elections Public Funding of General Assembly Races. This proven reform – already law in other states – would provide limited public funding to qualified candidates for the General Assembly so they can run for office without relying on campaign contributions from banks, HMOs and other special interests that write big checks. Thanks in part to support this year from Senate President Mike Miller, PM and allies counted enough votes to pass the bill. But on the Senate floor opponents succeeded in attaching to the legislation a poison pill amendment that fundamentally changed the bill, which in turn prompted several new supporters of the bill to withdraw their support. It was maddening to watch this procedural maneuver kill a bill which seemed on its way toward passage. But PM and allies will bring the bill back next year and pick up where we left off: first-and-goal on the five yard line.
- Driver's Licenses for Undocumented Residents. To comply with former President Bush's "Real I.D. Act", states must require that residents show proof of U.S. citizenship in order to get a driver's license. In this way, according to the proponents of the "Real I.D. Act", foreign terrorists would not be able to use driver's licenses to enter airplanes, federal buildings, and other terrorist targets. But if denied a driver's license many undocumented residents who already live and work here will no doubt drive without a license because they must commute to their jobs in order to feed their families. The House of Delegates came up with

a decent idea to avoid this scenario: issue to residents who already live here and who cannot prove citizenship a driver's license that would NOT legally enable them to enter airplanes, federal buildings, etc; but issue to residents who can prove citizenship a federally approved, official driver's license. In an ugly and pointless act of unkindness, the state Senate refused to accept the House's reasonable proposal. Ultimately, the two chambers agreed to allow undocumented residents who already live here to get a second-tier license only up to 2014, after which they would be denied a driver's license of any kind.

Conclusion

Why did the General Assembly kill more than half of the bills listed above (and water down most of those that passed)? Because too many legislators listen more to big campaign donors than to regular voters. On paper, the General Assembly is 2/3 controlled by Democrats – the party that professes to care about working families. But this year it sometimes seemed that the General Assembly was 2/3 controlled by corporate special interests. To reduce that undue clout, Maryland needs Clean Elections public funding of campaigns so that candidates have the option to run for the General Assembly without depending on contributions from Constellation, Verizon, and other deep-pocket special interests. Kudos to Senate President Mike Miller for this year supporting this reform; we look forward to working with him again next year to move the ball from the five yard line into the end zone.

PM and allies will re-introduce next year all the bills above that failed. And next year we will enact them into law -- but only with Gov. O'Malley's personal lobbying for these bills. Experience shows that many legislators will defy their big donors and side with regular voters only when they get their arms twisted by the Governor himself – not just by the Governor's talented staff. Of course, legislators will squeal in protest. But once these good bills pass, they will be glad they did right by working families. How many of them today regret voting in 2006 for Progressive Maryland's bill to raise the minimum wage? How many regret voting in 2007 for our Living Wage bill? A pro-worker agenda is not only the right thing to do; it also wins elections. And the 2010 election – *in particular, the Democratic primary* -- is coming up fast.