UB LEGISLATION WORKSHOP  
Fall 2015  
Tuesday 1:30-4:15  
Room AL 608

SYLLABUS

Professors Sandy Rosenberg and Amanda Stakem Conn
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Amanda Conn contact information: amanda.conn@maryland.gov and 410-767-4485
Office hours: By appointment

COURSE DESCRIPTION

REQUIRED MATERIALS:  
2. Legislative Drafting Manual, 2015, Department of Legislative Services

3. TWEN. Each student is required to register for the course’s TWEN website. TWEN will contain materials noted on the syllabus that are not on-line. They will be titled by the class date.

   All reading assignments are in these texts, and supplemental reading is noted in the syllabus. All supplemental readings are required as well. Please make sure to check the TWEN site regularly for course materials and updates.

COURSE GOALS:  
The course will provide an in-depth view of the legislative process in Maryland, using selected pieces of legislation to illustrate and understand this process. The course focuses on the evolution of legislation from a policy idea to bill drafting, bill introduction, strategy for the bill’s passage, written and oral testimony, and amendments. In addition, the course involves written assignments that illustrate different stages of the legislative process. Students will also come to understand the legislative process from key players in the legislative arena.
Through this course, students will understand the key aspects of the legislative process, learn how to draft bills and testimony, and develop legislative strategy concerning a bill topic of the student’s choice. This exercise mirrors conduct at a legislative session.

These objectives will be furthered by students keeping abreast of media coverage of legislative issues included in the syllabus.

The syllabus will be updated during the course of the semester, and topics are subject to rescheduling, given the availability of guest lecturers.

**ATTENDANCE:**

You are expected to attend each class on time. We will pass around a sign-in sheet at each class session. It is your responsibility to ensure that you sign this sheet, as it is the official record of your attendance. Per the University of Baltimore’s policy, you may have no more than 5 absences during the semester. A student whose absences exceed this limit will be excluded from the final examination and will receive a grade of “WA” (withdrawal due to excessive absences) in the course. The law school’s attendance policy is located at [http://law.ubalt.edu/template.cfm?page=267](http://law.ubalt.edu/template.cfm?page=267). The reasons for absences are irrelevant. While we will make every effort to notify students who are in danger of exceeding the maximum number of absences, each student is responsible for keeping track of his/her attendance record and for contacting one of us if there are any questions.

We encourage the use of laptops for notetaking and accessing the internet for class-related information. However, random laptop internet searching (involving materials that are not related to that day’s class) or instant messaging is a distraction to the rest of the class and to our guest speakers. If you are discovered to be using your computer for
purposes unrelated to productive class participation, you will be marked absent for that day.

**EVALUATION:**

You will be evaluated based on your performance on five writing projects, oral testimony, and class participation. The assignments for the Legislation Workshop and class participation will count for the following percentages of your grade:

1. First class assignment  
   5%  
2. First Bill Drafting exercise  
   10%  
3. Bill Draft  
   25%  
4. Written testimony on Bill Draft  
   15%  
5. Oral Testimony on Bill Draft  
   15%  
6. Amendments to Bill (other student’s bill)  
   5%  
7. Strategy memo on Bill Draft  
   20%  
8. Class participation  
   5%

While you may discuss your written assignments with your classmates, the writing assignments are NOT a collaborative effort. You must independently research, organize, write, edit, and proofread your own assignments.

Each of these writing requirements will be graded on the standard grading scale. Class participation will be graded on your contribution to meaningful discussion in class and your ability to answer questions.
ASSIGNMENTS:

If necessary, this syllabus may be modified during the semester. If the syllabus is modified, the modifications will be announced in class and/or posted on TWEN.

Students are expected to complete the reading assignments, be prepared to answer the questions in the syllabus relating to the class topic, attend each class on time, timely complete the writing assignments, and engage in the in-class discussion of the readings. Bring the relevant texts (and any statutes or handouts assigned as a supplement) to each class. Consistently active participation, demonstrating that you have read and thought about the class assignment, is expected.

Writing assignments are to be sent as follows (other than the first class assignment):

- if you are Professor Rosenberg’s student you are to send all assignments to him via email Delsandy@aol.com
- if you are Professor Conn’s student you are to upload all assignments to her via TWEN.

The writing assignments are due as follows:

1. First class assignment – emailed to delsandy@aol.com on August 19th by 1:30 p.m. or handed in at the beginning of class.

2. First bill drafting assignment – turned in by September 11th by 5:00 p.m..

3. Bill Draft – emailed (through TWEN) to both professors and all class members by 9:00 a.m. the day you have been assigned to present your bill and written testimony.

4. Written Testimony – emailed (through TWEN) to both professors and all class members by 9:00 a.m. the day you have been assigned to present your bill and written testimony.
5. **Amendments to your bill draft** – Turned in, November 18th by 5:00 p.m., or by 5 p.m. on November 21 if your bill hearing was on November 18th.

6. **Bill Strategy Memorandum** – no more than 5 pages single spaced and turned in the day that finals begin, December 2nd by 5:00 p.m.

**Other:**

We will distribute a seating chart on the first day of class. Please sign the chart in the place where you intend to sit all semester. Please sit in your seating chart place for each class. This will help us put your name and face together and keep track of class participation.
Unlike some high-minded radicals whose purism took precedence over politics, [Congressman Thaddeus] Stevens knew how to get things done. And, like Lincoln, he knew that passing the Thirteenth Amendment could not involve compromise, whether construed as splitting the difference between two contesting sides or as revising one’s principles. It involved exploiting all of democracy’s dark but often essential arts, including dispensing favors of patronage to congressmen and hedging public remarks to the edge of mendacity. These arts, especially as wielded by Lincoln and his other indispensable political ally, Secretary of State William H. Seward, yielded slavery’s abolition. Without that monumental victory, the hard-nosed Republican Stevens could never have picked up the fight to achieve his highest principles, including full black citizenship and racial equality. So Stevens, in Lincoln, emblemizes politics in contrast to the sanctimonious anti-political stance that passed itself off (and still does) as righteous progressivism.


“We won the fight to fund the Department of Homeland Security and to stop the president’s unconstitutional actions,” Speaker Boehner said. “You know, in the gift shop out here, they’ve got these little booklets on how a bill becomes a law, right? The House has done its job.”


He [Senator John McCain] tackles accountability on spending, reforms for federal pension systems that have eluded the rest of government — and, when possible, an interventionist stance on nations that most vex him. “The importance of being in the majority and having the chairmanship is the ability to set the agenda,” he said.
Jennifer Steinhauer With Chairmanship, McCain Seizes Chance to Reshape Pentagon Agenda, New York Times, June 92015

There is a price to pay for rejecting the partial victories that are typically achieved through political activity.

Congressman Barney Frank, excerpted from *Frank*

“I think it’s a conversation [about the Confederate flag] that we’re going to have,” said State Senator Tom Davis, a Republican who represents Beaufort County in the Legislature. But he added: “Nothing is going to happen simply within the walls of that chamber without the people making their voice heard. There’s a sense in the institution itself that this issue was resolved.”

“The South Carolina legislature doesn’t move rapidly on anything, so the fact that this has all come about is remarkable,” said Scott E. Buchanan, the executive director of the Citadel Symposium on Southern Politics. “I think we’ll look back on this in future years and just be astounded.”


“You don’t know it all. Seek advice from others. My Number One lesson learned from this session.”

Del. Sandy Rosenberg, email to Sen. William Ferguson, March 27, 2014

Department of Legislative Services, “The Legislative Process (How a Bill Becomes Law),” Legislative Drafting Manual 2015, p. 5-10 (“Bill Drafting Manual”)

House Bill 73, Voters’ Rights Protection Act of 2015
Testimony of Delegate Samuel I. “Sandy” Rosenberg in support of House Bill 73, February 11, 2015

Kathryn M. Rowe, Letter to Hon. Frank S. Turner, March 17, 2015

Sandy’s Legislative Diary, various entries


House Bill 42, Fair Employment Preservation Act of 2015

*Vance v. Ball State University*, 133 S.Ct.2434 (2013) (all opinions)

Testimony of Delegate Samuel I. “Sandy” Rosenberg in support of House Bill 42, February 11, 2015

Kathryn M. Rowe, letter to Hon. Samuel I. “Sandy” Rosenberg, February 10, 2015


Maryland Chamber of Commerce, Legislative Position, HB 42, Fair Employment Preservation Act of 2015

Sandy’s Legislative Diary, various entries

The Leadership Conference on Civil and Human Rights, “Co-Sponsor the Fair Employment Protection Act,” March 31, 2014

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*For in-class discussion:*

Now that you know how a bill becomes a law, is it easier to pass a bill or kill a bill?

How does the enacted House Bill 73 differ from the legislation as initially introduced, House Bill 309 (2007 Session)?

What lessons should the sponsor take from the failure of HB 42?

**August 25 – Protecting Student Data and Retailing Electric Cars**

House Bill 298, Education - Student Data Privacy Act of 2015

James J. Halpert, General Counsel, State Privacy and Security Coalition, Inc. Letter to The Honorable Ann Kaiser, February 18, 2015

John R. Woolums, House Bill 298 – Support, February 19, 2015

Steven M. Sakamoto-Wengel, Assistant Attorney General, Letter to The Honorable Sheila E. Hixson, February 19, 2015

Amy Maloney, MSEA, Testimony in Support of House bill 298, February 19, 2015

Bradley S. Shear, Esq., Testimony in Support of Maryland House Bill 298, February 19, 2015

HB 235 - Vehicle Laws - Manufacturers and Distributors - Sale of Electric or Nonfossil-Fuel Burning Vehicles


William Tiger, Plant Manager, General Motors Company, Letter to Honorable Kumar P. Barve and Honorable Pamela Beidle, February 18, 2015

In-class discussion:

Both House Bill 235 and House Bill 298 passed after a compromise was reached. How was this process similar for these two bills? How did it differ?

Guest lecturers:

Chris Dipietro, CDI Consulting Services, lobbyist for Microsoft

Eric Bryant, Rifkin, Weiner, Livingston, Levitan & Silver, LLC, lobbyist for AOL Inc.

Ashlie T. Bagwell, Harris, Jones & Malone, lobbyist for Tesla

Sean Malone, Harris, Jones & Malone, lobbyist for Tesla

Paul Tiburzi, DLA Piper, lobbyist for General Motors

September 1 - Bill drafting – the member and the drafter; Bills that don’t pass and the newsletter rule
I will venture to affirm, that what is commonly called the technical part of legislation, is incomparably more difficult than what may be styled the ethical. In other words, it is far easier to conceive justly what would be useful law, than so to construct that same law that it may accomplish the design of the lawgiver.

– John Austin, Jurisprudence

Department of Legislative Services Bill Drafting Manual, 2015

Chapter 3. p. 11 to 17
Chapter 4. p. 21 to 27
Chapter 5. p. 35 to 48
Chapter 6. p. 81 to 86
Appendix p. 238 to 240

Powerpoint on bill drafting (to be posted after this class)

Md. Annotated Code, General Provisions, Title 1, Rules of Interpretation (skim all provisions in Subtitles 1-3

Excerpt on statutory drafting, State v. Willan (Ohio 2013)
http://www.volokh.com/2013/06/12/now-there-are-some-sentences-for-you/

How a Bill That Doesn’t Become a Law Can Move the Ball Down the Field

Uncodified Language


HB 224, Election Law – Improving Access to Voting (Section 4) (2013)

Budget Bill

House Bill 842 - Public Safety - Drug Treatment Court - Baltimore City
See http://mgaleg.maryland.gov/Pubs/BudgetFiscal/2014rs-budget-docs-jcr.pdf, 140 and 141

Letter from Cabinet Secretary

House Bill 1070 - Department of Health and Mental Hygiene – Cigarette Restitution Fund – Report

Secretary Joshua Sharfstein, Letter to Delegates Peter A. Hammen and Sandy Rosenberg, February 25, 2014
First class assignment will be returned and discussed

First bill drafting assignment will be discussed

For in class discussion:

What should be the role of the bill drafter in pointing out constitutional or other drafting problems?

Should the bill drafter proceed in drafting a bill even if the sponsor is told of a legal problem and still wants to proceed?

Why is the Code article that a bill amends important to the sponsor?

Should a member take credit when a bill he or she introduced does not pass?

September 8 – Ethics and Charters


Andrea F. Siegel, “Anne Arundel ethics panel tells Fink to recuse himself on new executive selection,” Baltimore Sun, February 20, 2013
http://www.baltimoresun.com/news/maryland/bs-md-ar-fink-20130220,0,7512405.story


“The mayor and the lobbyist,” Baltimore Sun, June 13, 2013

Nevada Commission on Ethics v. Carrigan, 131 S.Ct. 2343 (2011)

Bell ringer

House Bill 884, Real Property - Preservation of Housing for the Elderly (2001 Session)


**Charter Schools**

SB 595 – Charter School Improvement Act of 2015

SB 595 – Fiscal and Policy Note


MABE, January 22 briefing on Charter Schools

MSEA statement on Charter Schools

Veto weak charter school bill, Tom Neumark, Frederick Classical Charter Schools

Senate EHEA markup of SB 595
First bill drafting assignment will be returned and discussed

For in-class discussion:

Does the disclosure model adequately prevent conflicts of interest among legislators? Is prohibition of certain relationships preferable?

Legislators often “us[e] their votes to express deeply held and highly unpopular views, often at great person or political peril,” writes Justice Alito in Carrigan, prompting a response from Justice Scalia. Which opinion better describes a legislator’s approach before casting a tough vote?

Should there be limits on a sitting member of the legislature wearing a “wire” when meeting with colleagues?

What does the number of pages struck from the charter school bill tell you? Who do you think drafted the charter school bill?

Guest Lecturers: Dea Daly, Ethics Counsel to General Assembly

Jason Botel, Maryland CAN

Joseph C. Bryce, Manis Canning and Associates, lobbyist for MD CAN

September 15 – Hailing a taxi, Growing a region

Senate Bill 868, Public Utilities - Transportation Network Services and For-Hire Transportation

Testimony of Senator Bill Ferguson in support of SB 868, March 24, 2015
Testimony of Zuhairah Washington, General Manager, Uber, SB 868, March 24, 2015
Testimony of the Public Service Commission, SB 868, March 24, 2015
Testimony of the Office of People’s Counsel, SB 868, March 24, 2015
Testimony of the Maryland Insurance Administration, SB 868, March 24, 2015
Testimony of the Department of Business & Economic Development, SB 868, March 24, 2015
Matthew Daus, Testimony SB 868, March 24, 2015


Incentive instead of Prohibition


HB 550  Income Tax Credit - Web Site Modifications - Accessibility for the Blind (2013 Session)

Task Force

HB 991, Task Force to Study the Renovation and Repair Needs of Senior Homeowners (2012 Session)

HB 957, Housing - Accessible Housing for Senior Homeowners, Older Adults, and Individuals with Disabilities (2013 Session)

Secretary Raymond Skinner, Letter to The Honorable Samuel I. Rosenberg, June 6, 2014

Guest lecturer:

D. Robert Enten, Gordon Feinblatt LLC, Lobbyist for Transdev North America Inc.

Senator Bill Ferguson

Commissioner Kevin Hughes, Chair Maryland Public Service Commission

For in-class discussion:
What didn’t the Legislation class teach Senator Ferguson about serving in the State Senate?

Why did the Uber bill fail in 2014 but pass in 2015?

How should the regulatory system adapt to apps?

**September 22 – Legislative History, Amendment drafting, Death penalty**

**Death Penalty**

Delegate Sandy Rosenberg, with Tom Waldron, “It was the most profound thing I will ever do,”

[http://ejusa.org/newsline/article/2015/06/02/it-was-most-profound-thing-i-will-ever-do](http://ejusa.org/newsline/article/2015/06/02/it-was-most-profound-thing-i-will-ever-do)

**Legislative History**


**Amendment Drafting**

Bill Drafting Manual, p. 177-204

Powerpoint to be posted after class

In-class amendment drafting exercise

**September 29 – Hotels, Schools, and Marriage**

"*Blessed are the peacemakers, for they shall be called sons of God.*” Matthew 5:9

Senate Bill 190, Sales and Use Tax - Taxable Price – Accommodations

Marriott, Statement of Support, February 11, 2015

Mac Zimmerman, Policy Director Americans for Prosperity, Letter in Opposition to SB 190, February 6, 2015

Maryland Chamber of Commerce, Legislative Position, SB 190, February 11, 2015

Grover Norquist, Letter to Members of the Maryland General assembly, undated

Hon. Lawrence J. Hogan, Jr., Veto Letter to Hon. Thomas V. Miller, Jr. and Hon. Michael E. Busch, May 22, 2015

http://content.govdelivery.com/attachments/MDGOV/2015/05/22/file_attachments/392909/SB%2B190%2BSales%2Band%2BUse%2BTax%2BAccomodations.pdf

Senate Bill 183, Education - Geographic Cost of Education – Requirement


Maryland Association of Boards of Education, Memorandum in Support of Senate Bill 183, February 11, 2015


Robert L. Rankin, Sr., MSEA Testimony in Support of Senate Bill 183, February 11, 2015


Sara Love, “Keep public funds out of private schools,” April 8, 2015


Jonah Goldberg, "You can't compromise with culture warriors," Baltimore Sun, July 4, 2015


Jon O’Brien and Barry Lynn, “Freedom of and from religion,” Baltimore Sun, June 18, 2015


*In class discussion:*

Should there be parity between hotels and online travel companies?

Is more money the answer for our public schools?

Now that marriage equality is protected under the Constitution, who will be the peacemakers?

*Guest lecturer: Senator Richard Madaleno*

**October 6 – Recording and Toking**

Senate Bill 482, Public Safety - Law Enforcement Officers - Body-Worn Digital Recording Device and Electronic Control Device

American Civil Liberties Union of Maryland, Testimony, SB 482 Support, February 26, 2015

Department of State Police, Letter of Information, Senate Bill 482, February 26, 2015

Andrew Smullian, Deputy Mayor of Government Relations and Labor, Senate Bill 482, Support With Amendments, February 26, 2015

Senate Bill 517, Criminal Law - Use and Possession of Marijuana and Drug Paraphernalia

Marijuana Policy Project, Testimony in Support of SB 517, February 25, 2014
American Civil Liberties Union of Maryland, SB 517, Support with Amendments, March 4, 2015

Maryland Judicial Conference, Senate Bill 517, Memorandum, February 27, 2015

Department of State Police, Senate Bill 517 – Oppose, March 4, 2015

Governor Lawrence J. Hogan, Jr., Veto Letter to the Hon. Thomas V. Mike Miller, Jr., May 22, 2015

http://content.govdelivery.com/attachments/MDGOV/2015/05/22/file_attachments/392911/SB%2B517%2B-%2BCriminal%2BLaw%2B-%2BUse%2BBand%2BPossession%2BOf%2BMarijuana%2BAnd%2BDrug%2BParaphernalia.pdf

Guest Lecturer: Sen. Robert Zirkin

October 13– Budget


Legislat ing in the Budget, in-class handout

Guest Lecturer: Delegate Maggie McIntosh, Chair House Appropriations Committee

Marc Nicole, Deputy Budget Secretary and Bruce Martin, former Principal Counsel of Department of Budget and Management

October 20 – Death with Dignity

House Bill 1021, Richard E. Israel and Roger "Pip" Moyer Death with Dignity Act

For, List of Panels, House Bill 1021, Richard E. Israel and Roger "Pip" Moyer Death with Dignity Act

Against, List of Panels, House Bill 1021, Richard E. Israel and Roger "Pip" Moyer Death with Dignity Act
Del. Shane Pendergrass, HB 1021, Summary Bullets

Richard E. Israel, Communication to Members of the Legislature and Colleagues, December 20, 2014


Richard Davis, Director of Public Policy, The Arc Maryland, House Bill 1021 – Oppose, March 6, 2015

Rabbi Steven M. Fink, Testimony Re: House Bill 102, undated

Jeffrey D. Meister, Director of Administration and Legislation, Maryland Right to Life, March 6, 2015


For in-class discussion:

Does House Bill 1021 strike the proper balance between individual decision-making and intervention by the government?

Guest Lecturers: W. Minor Carter, Lobbyist for Richard Israel


Jay Schwartz, Lobbyist,

October 27 – From the Board Room to the Boat Deck


http://www.governing.com/topics/politics/gov-statehouse-reporting-analysis-lou.html?elqTrackId=b8f66a782ff84b138ceac066202e06ad&elqaid=25908&elqat=1

Guest lecturer:    Senator Paul Sarbanes

Joe Getty, Governor’s Chief Legislative Officer

For in-class discussion:

November 3 – Dereck Davis and Caro One

Robert Caro, Master of the Senate, 831-894

Could Lyndon Johnson work the Senate today as he did in 1957?

Are there exceptions to the Johnson adage that historic breakthrough legislation will require compromise to be passed but be followed by subsequent enactments that broaden the law’s scope?

Paid Leave Legislation

HB 385 - Labor and Employment – Maryland Healthy Working Families Act


“New Law Signed in Montgomery County Requires Paid Sick Leave”

Greater Baltimore Committee, Testimony in Opposition, HB 385

Job Opportunities Task Force, Testimony in Support, HB 385
Maryland Chamber of Commerce, Testimony in Opposition, SB 40

Guest lecturers: Del. Dereck Davis, Chair, House Economic Matters Committee

For in class discussion:

Did all of the bill sponsors of HB 385 make any difference in committee?

If you are a lobbyist for business, how do you deal with counties that are considering paid leave bills?

If you are a lobbyist in support of paid leave, how do you deal with counties?

November 10 - Former Students and Caro Two

Robert Caro, Master of the Senate, 895-943

“Maryland politics: A 2015 primer,” Baltimore Sun, January 1, 2015


Guests – Former students who work in and around the Maryland General Assembly

For in-class discussion:

Was the Civil Rights Act of 1964 made possible by the 1957 law?

November 18 – Honest Abe and “Radical” Thaddeus; “Honest” Selma and “Reluctant” Lyndon

Randall Kennedy, “The Civil Rights Movement and the Politics of Memory,” The American Prospect, Spring 2015 (excerpt)

Watch the movies Lincoln (2012) and Selma (2014)


http://www.washingtonpost.com/opinions/the-movie-selma-has-a-glaring-historical-inaccuracy/2014/12/26/70ad3ea2-8aa4-11e4-a085-34e9b9f09a58_story.html

For in-class discussion:

1. Rep. Thaddeus Stevens downplays his personal political beliefs in order to gain passage of the 13th Amendment. Does this make him more principled or less principled? Can you think of any modern examples of this type of decision? Which is more
honorable: standing one’s ground despite guaranteed defeat, or downplaying one’s beliefs in order to gain a smaller victory in the hopes of additional victories later?

2. Why did the Emancipation Proclamation free only those slaves living in the Confederacy, and why could this freedom have been taken away after the war, had the 13th Amendment failed to pass?

3. What similarities do you see in Lincoln’s tactics for passage of the 13th Amendment, and Lyndon Johnson’s and Barack Obama’s tactics to pass the Civil Rights Act of 1957 and “Obamacare,” respectively?

4. What effect did personal popularity play in those three legislative efforts? What tradeoffs does a president often make when “cashing in” some of his political popularity for a controversial cause?

5. What appropriate liberties can a filmmaker take with the truth?