

Department of Legislative Services
Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE

Revised

House Bill 536

(Chair, Health and Government Operations Committee, *et al.*) (By Request - Departmental - Aging)

Health and Government Operations

Finance

Department of Aging - Long-Term Care Ombudsman Program

This departmental bill conforms State law regarding the State's Long-Term Care Ombudsman Program to the federal Older Americans Act (OAA). The bill also requires the Maryland Department of Aging (MDoA) to reconvene, and the State Long-Term Care Ombudsman to attend meetings with specified stakeholder groups by July 31, 2010. MDoA must provide certain information to the group at and between meetings; the group must meet until January 2013.

This bill takes effect June 1, 2010.

Fiscal Summary

State Effect: Federal fund expenditures increase by \$6,600 beginning in FY 2011 for a contractor to staff the stakeholder group. The Governor's proposed FY 2011 State budget includes funds to support the contractual position. Future years reflect inflation and the termination of the group in FY 2013. Revenues are not affected.

Local Effect: The Long-Term Care Ombudsman Program is administered primarily at the county level, but the changes are not expected to materially impact local spending.

Small Business Effect: MDoA has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

Analysis

Current Law/Background: The Maryland Long-Term Care Ombudsman Program within MDoA receives and resolves complaints made by or for residents of long-term care facilities, which is a large category of facilities that includes nursing homes and assisted living facilities. The program consists of one State ombudsman and staff that work in 19 local area agencies on aging that cover all of Maryland's 23 counties and Baltimore City. In 2008, the program handled 4,463 complaints.

Testimony received by the budget committees during consideration of the fiscal 2009 MDoA budget indicated that ombudsman services were inconsistent among local jurisdictions. In response, MDoA issued a request for proposal to have an independent evaluation of the ombudsman function completed by an outside consultant.

The consultant's final report, completed March 2009, included a number of recommendations to improve the ombudsman program related to organization, governance, human resources, financing, program activities, accountability, data, and effectiveness. The report also outlines a strategic plan to implement the recommendations that includes:

- increasing and strengthening volunteer presence;
- designating local entities and individuals, and developing a model contract-like agreement that states the responsibilities of the State and local sponsoring entities, assuring cohesion and holding local entities accountable;
- adopting regulations consistent with federal law to assure that the program operates within its legal and regulatory limits and performs at its optimal level;
- increasing and enhancing public outreach and developing a strategic plan for expansion of outreach.

OAA requires state units on aging to establish an Office of the Long-Term Care Ombudsman. The law requires that a full-time ombudsman administer the program at the state level, and that local ombudsman may be designated by the state and are considered to be representatives of the office. However, OAA does give each state some leeway in determining many aspects of the program.

MDoA advises that the bill is necessary to align State law with the long-term care provisions of OAA to ensure continued federal funding, which could be at risk given some inconsistencies between federal and State law. For example, OAA requires that a state receiving federal funds ensure that its ombudsmen have access to the medical records of long-term care residents. While State statute addresses this issue, it is not as strong as required by the Act.

State Expenditures: Federal fund expenditures increase by \$6,600 beginning in fiscal 2011 for an MDoA contractor to staff the stakeholder group. The Governor's proposed fiscal 2011 State budget includes an additional \$10,000 in federal Title VII funding for Ombudsman Services, which will be used in part for this purpose. Future years assume continued receipt of federal funds for this purpose as well as reflect inflation and the termination of the group in fiscal 2013. To the extent federal funds are not available in fiscal 2012 and 2013, general funds would have to be used.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Human Resources, Department of Health and Mental Hygiene, Judiciary (Administrative Office of the Courts), Maryland Department of Aging, Congressional Research Service, Health Benefits ABCs, Montgomery County, Department of Legislative Services

Fiscal Note History: First Reader - February 12, 2010
mpc/mwc Revised - House Third Reader - March 30, 2010

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Department of Aging – Long-Term Care Ombudsman Program

BILL NUMBER: HB 536

PREPARED BY: Maryland Department of Aging

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

The proposed legislation will have no impact on small business in Maryland.