

Department of Legislative Services
Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE

House Bill 268
Economic Matters

(Delegate Branch, *et al.*)

Education, Health, and Environmental Affairs

Board of Liquor License Commissioners for Baltimore City - Ethics, Open Meetings, and Performance Audit

This bill requires the Office of Legislative Audits (OLA) to conduct a performance audit every three years of the Baltimore City Board of Liquor License Commissioners. The performance audit must evaluate the effectiveness and efficiency of the management practices of the board and of the economy with which the board uses resources. The performance audit must focus on operations relating to liquor inspections, licensing, disciplinary procedures, and management oversight. The bill authorizes OLA to have access to and inspect board records. The audit reports must be sent from the Legislative Auditor to the same governmental officers and units as other required audit reports. OLA is required to initiate the first such audit by November 1, 2011.

The bill also prohibits a board commissioner or an employee from having any interests in businesses or premises relating to the distribution of alcoholic beverages. A commissioner may not receive any salary or other compensation or any other thing of value from a business engaged in the manufacture, distribution, or sale of alcoholic beverages. The bill specifies that an action of a commissioner or employee of the board is subject to State requirements for open or public meetings.

Fiscal Summary

State Effect: The Department of Legislative Services (DLS) can handle the audit requirement with existing budgeted resources.

Local Effect: The Baltimore City Board of Liquor License Commissioners may incur operational difficulties by complying with two audit requirements.

Small Business Effect: None.

Analysis

Current Law and Background: The Baltimore City Board of Liquor License Commissioners is an agency of the State responsible for regulating the sale, storage, and distribution of retail alcoholic beverages in Baltimore City. Every two years, the Governor, with the advice and consent of the city senators, appoints three individuals to serve as commissioners, one of whom is designated as the chairman. The board administers the statutes, laws, ordinances, and its own rules and regulations regarding the operation of alcoholic beverage establishments in Baltimore City. Currently, there are approximately 1,470 alcoholic beverage establishments in Baltimore City.

According to the Comptroller's Alcohol and Tobacco Tax Annual Report for fiscal 2010, Baltimore City revenues from alcohol licenses totaled \$1.85 million. The annual report also states that the city issued 1,257 retail licenses and imposed 203 violations for the year. The most frequent violation was for sale of an alcoholic beverage to a minor (58 violations). Under existing law, Baltimore City has a moratorium on new licenses except under specified circumstances (*e.g.*, new hotel).

Because the Governor appoints the board's three commissioners, the Baltimore City Board of Liquor License Commissioners is considered a State agency. However, all employees of the board, including inspectors and support personnel, serve under the classified civil service of Baltimore City. In addition, the board receives no State funding. All financial transactions (license revenues and operating expenses, including payroll) are processed by the city government. The board is included, for financial statement reporting purposes, as part of the primary government unit of Baltimore City (as defined by government accounting standards). These financial statements are audited by the Baltimore City Department of Audits (a unit of the Baltimore City Office of the Comptroller). The department also conducts periodic audits of certain board financial data and is authorized to conduct performance audits. OLA indicates that the department has conducted a performance audit of the board in the past.

At least once every three years, OLA must conduct a fiscal/compliance audit of each unit of the State government, except for units in the Legislative Branch. Performance audits or financial statement audits must be conducted when authorized by the Legislative Auditor, when directed by the Joint Audit Committee or the Executive Director of DLS, or when otherwise required by law. OLA has the authority to conduct a separate investigation of an act or allegation of fraud, waste, or abuse in the obligation, expenditure, receipt, or use of State resources. OLA may audit any county officer or unit that collects State taxes.

OLA, within DLS, audits State agencies in the Executive and Judicial Branches and other entities as requested by the Maryland General Assembly. As required by statute, the

office reports to the Joint Audit Committee of the General Assembly and is responsible for:

- performing fiscal compliance audits of State agencies to evaluate fiscal operations and determine compliance with laws and regulations;
- conducting performance audits to evaluate whether a State agency or program is operating in an economic, efficient, and effective manner;
- conducting performance audits of the financial management practices of local school systems;
- operating a fraud hotline for reporting fraud, waste, and abuse of State resources;
- monitoring the financial reporting practices and financial condition of local governments in Maryland; and
- conducting special reviews and investigations requested by the Joint Audit Committee.

State Fiscal Effect: A performance audit conducted by OLA may include evaluating efficiency, effectiveness, and economy with which resources are used and determining whether desired program results are achieved. OLA reports that its general approach for the audit required under the bill would be to:

- review the board management's policies, standards, and processes governing liquor licensing, inspections, and disciplinary procedures;
- compare those policies and standards with other similar boards in the State (or nearby states) to identify best practices or shortcomings; and
- determine whether management has established the necessary oversight to ensure its policies, standards, and processes have been effectively implemented.

The general scope of the audit could include the following:

- Liquor Licensing – Review policies, standards, and processes for issuing, renewing, and transferring licenses and evaluate for conformance with laws, board requirements, and best practices.
- Inspections – Review policies, standards, and processes for scheduling (including deploying resources), conducting, and reporting inspections, initiating enforcement actions, and following up on violators, and evaluate for conformance with laws, board requirements, and best practices.
- Disciplinary Procedures – Review policies, standards, and processes for assessing fines, suspending licenses, and administering other disciplinary actions (of a penalty nature), and evaluate for conformance with laws, board requirements, and best practices.

- Management Oversight – Review policies, standards, and processes for overseeing licensing, inspections, and disciplinary actions and evaluate for conformance with laws, board requirements, and best practices.

OLA indicates that the bill's audit requirements will involve personnel time covering 200 days beginning in fiscal 2012 and every three years thereafter. The personnel costs associated with this new responsibility is estimated at \$140,000, which is based on a cost rate of approximately \$700 per audit workday. Based on the audit frequency of once every three years, the pro-rata annualized costs would total approximately \$47,000 per year, which represents less than one full-time equivalent position. Due to these factors, OLA indicates that the audit could be performed using existing personnel and that any additional cost would be absorbed within OLA's budget.

Local Fiscal Effect: Baltimore City advises that the bill duplicates provisions already in law or practice. The board is already covered under the Open Meetings Act and is specifically included under the ethics policy of Baltimore City. Baltimore City indicates that the bill's requirements would lead to two audits of the board being conducted annually which would contribute to considerable operational difficulties.

Additional Information

Prior Introductions: None.

Cross File: SB 613 (Senators Jones-Rodwell and Pugh) - Education, Health, and Environmental Affairs.

Information Source(s): Baltimore City, State Ethics Commission, Department of Legislative Services (Office of Legislative Audits)

Fiscal Note History: First Reader - February 25, 2011
ncs/hlb

Analysis by: Guy G. Cherry

Direct Inquiries to:
(410) 946-5510
(301) 970-5510