

Department of Legislative Services  
 Maryland General Assembly  
 2011 Session

FISCAL AND POLICY NOTE

House Bill 989 (Delegate Hubbard)

Health and Government Operations and  
 Environmental Matters

State Board of Environmental Health Specialists - Transfer of Responsibilities

This bill transfers the State Board of Environmental Sanitarians (BES) from the Maryland Department of the Environment (MDE) to the Department of Health and Mental Hygiene (DHMH) and changes the name of the board to the State Board of Environmental Health Specialists. Correspondingly, environmental sanitarians are renamed environmental health specialists and environmental sanitarians-in-training are renamed environmental health specialists-in-training. The bill also changes the funding source for the board by creating a special fund.

Fiscal Summary

**State Effect:** General fund revenues decline by \$12,500 in FY 2012 and \$72,600 in FY 2013 as licensing fees are no longer paid to the general fund. General fund expenditures for MDE also decline by \$8,500 in FY 2012 and \$11,500 in FY 2013 due to a reduction in administrative costs resulting from transfer of the board to DHMH, effective October 1, 2011. Special fund revenues and expenditures for DHMH increase by \$24,900 and \$49,400, respectively, beginning in FY 2012 due to the creation of a special fund for licensing revenues and to cover the expenses of administering the board. Future years reflect annualization, inflation, and growth in board revenues.

(in dollars)	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
GF Revenue	(\$12,500)	(\$72,600)	(\$17,000)	(\$74,100)	(\$17,300)
SF Revenue	\$24,900	\$145,300	\$33,900	\$148,200	\$34,600
GF Expenditure	(\$8,500)	(\$11,500)	(\$11,600)	(\$11,700)	(\$11,900)
SF Expenditure	\$49,400	\$59,600	\$73,800	\$76,200	\$78,700
Net Effect	(\$28,400)	\$24,500	(\$45,200)	\$9,700	(\$49,500)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

**Local Effect:** None.

**Small Business Effect:** None.

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## Analysis

**Bill Summary/Current Law:** The bill also establishes the State Board of Environmental Health Specialists Fund to cover the direct and indirect costs of the board. Fees must be set to approximate the cost of maintaining the board. No other State funds may be used to support the fund. The Legislative Auditor must audit the fund. **Exhibit 1** provides a summary of other major changes proposed under the bill and the relevant current law.

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### Exhibit 1 Proposed Changes under HB 989 Compared to Relevant Current Law

#### Current Law

#### Changes Under HB 989

##### **Board Membership & Powers**

Two at-large members must bring geographical balance to the board and may not represent a jurisdiction of the State that is already represented on the board.

At-large members must reasonably reflect the geographic diversity of the State. No two current members of the board may represent the same geographic jurisdiction.

Members serve five-year terms and may not serve more than one consecutive term.

Members serve four-year terms and may not serve more than two consecutive terms.

None.

For each vacancy of a licensee, the board must solicit nominations from all licensed environmental health specialists and submit a list of at least three names for each vacancy to the Secretary of Health and Mental Hygiene.

The Governor may remove a board member for incompetence, misconduct, neglect of duty, or other sufficient cause.

The Governor may remove a member for the same reasons but on the recommendation of the Secretary.

The board must meet at least twice a year. Special meetings must be called at the written request of two board members, five sanitarians, or the Secretary of the Environment.

Repealed.

None.

Authorizes the board to sue and issue subpoenas, summon witnesses, administer oaths, take affidavits, and take testimony about matters relating to the board.

**Current Law**

**Changes Under HB 989**

**Application for a License**

To apply for a license, an applicant must submit an application, submit verification that he or she has satisfied the sanitarian-in-training requirement or has equivalent experience, and pay application and examination fees.

Adds to the qualifications for applying for licensure that an applicant be of good moral character and at least age 18.

**License Renewal**

At least one month before a license expires, the board must send a renewal notice to the licensee by first-class mail.

Authorizes the board to use email to notify licensees that their license is coming up for renewal.

To renew a license, an individual must submit proof that, during the previous two-year period, the licensee has acquired 20 hours of approved training.

Repeals the 20-hour requirement and instead requires licensees to submit satisfactory evidence of compliance with continuing education requirements set by the board. Requires the board to establish continuing education requirements.

**Disciplinary Authority**

Specifies 15 grounds for disciplinary action or denial of an applicant for a licensure.

Expands the disciplinary grounds of the board to include failure to cooperate with a lawful investigation conducted by the board.

Any person may make a written, specific charge of a violation of laws governing environmental sanitarians if he or she swears to the charge and files the charge with the board secretary. If a registered environmental sanitarian knows of any action that might be grounds for disciplinary action, the sanitarian must report the action to the board. An environmental sanitarian that makes such a report has immunity from liability.

Repealed.

At least 30 days prior to a hearing regarding a disciplinary matter against a licensee, the board must provide notice of the hearing to the licensee.

Repealed.

A violation of the Maryland Environmental Sanitarian Act is a misdemeanor subject to a fine of up to \$100 and/or imprisonment of up to 60 days.

Increases the maximum fine to \$5,000 and the maximum length of imprisonment to two years.

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**Background:** Environmental sanitarians enforce compliance with federal, State, and local environmental and health law and regulations. In Maryland, “practice as an

environmental sanitarian” means, as a major component of employment, to apply academic principles, methods, and procedures to the inspections and investigations necessary to collect and analyze data and make decisions necessary to comply with environmental and health laws and regulations, including those regarding the manufacture, preparation, handling, distribution, or sale of food and milk; water supply and treatment; wastewater treatment and disposal; solid waste management and disposal; vector control; insect and rodent control; air quality; noise control; product safety; recreational sanitation; and institutional and residential sanitation.

BES was created in 1969 to ensure that individuals practicing as environmental sanitarians in Maryland meet minimum professional standards. BES is one of three environmental licensing boards currently operating within MDE. BES licenses individuals as “registered environmental sanitarians,” regulates “sanitarians-in-training” (individuals who meet the educational requirements for licensure but are obtaining relevant supervised experience), approves continuing education courses, and imposes disciplinary sanctions. There are currently 649 environmental sanitarians and 82 environmental sanitarians-in-training.

BES is budgeted through MDE. Although general funded, the board also has fee-setting authority. Likewise, fee revenue is deposited in the general fund. BES is staffed by a part-time administrator and a part-time administrative specialist, both of whom are shared with the State Board of Waterworks and Waste Systems Operators. The administrator and administrative specialist also often assist the State Board of Well Drillers.

At its inception in 1969, BES was part of DHMH but was moved to MDE when the department was created in 1987. The transfer of BES from DHMH to MDE was controversial at the time and remains so. Advocates for moving BES to DHMH assert that most environmental sanitarians work at DHMH or in local health departments, environmental sanitarians are more involved in the public health aspect of environmentalism, and DHMH issues a greater number of professional licenses than MDE and has more centralized resources for this work.

The Environmental Health Liaison Committee (EHLC), an interagency committee of MDE, DHMH, county health officers, and representatives of county environmental health directors, formed a Long-Term Workforce Work Group in 2007, to develop strategies to meet the State’s environmental health workforce needs over the next decade. The work group completed and submitted a report in June 2009, with three recommendations: (1) redefine the profession of environmental sanitarian as environmental health specialist; (2) revise environmental health position classifications to simplify and clarify job progression and responsibilities; and (3) reauthorize the Board of Environmental Sanitarians as the Board of Environmental Health Specialists and consider relocating the board to DHMH. This bill would codify two of these recommendations.

In 2009, the Department of Legislative Services (DLS) conducted a preliminary sunset evaluation of BES. DLS found that the board serves an important function in licensing and overseeing individuals who enforce compliance with federal, State, and local health and environmental laws. However, the report concluded that a full evaluation could assist BES in furthering its mission. As part of the full evaluation, DLS recommended that the report examine the (then anticipated) proposal that the board be moved from MDE to DHMH and make a recommendation as to the best departmental location for BES. BES is scheduled to undergo a full sunset evaluation by DLS during the 2011 interim. BES' current termination date is July 1, 2013. This analysis assumes the board will be reauthorized with a much later termination date.

**State Fiscal Effect:** Exhibit 2 displays anticipated general fund revenues and expenditures for BES under current law compared with the impact of HB 989. Additional details are included below.

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**Exhibit 2**  
**BES Revenues and Expenditures: Current Law vs. HB 989**  
**Fiscal 2012-2016**

	<u>FY 2012</u>	<u>FY 2013</u>	<u>FY 2014</u>	<u>FY 2015</u>	<u>FY 2016</u>
<b><u>BES Under Current Law</u></b>					
General Fund Revenues	\$16,626	\$72,646	\$16,959	\$74,009	\$17,298
General Fund Expenditures	79,254	82,354	85,587	88,957	92,473
<b><u>HB 989</u></b>					
<b>Revenues</b>					
General Fund	(12,470)	(72,646)	(16,959)	(74,009)	(17,298)
Special Fund – Transferred Board <sup>1</sup>	24,939	145,292	33,917	148,198	34,595
<b>Expenditures</b>					
General Fund – Continuing <sup>2</sup>	67,865	70,851	73,968	77,223	80,621
General Fund Savings <sup>3</sup>	(8,542)	(11,503)	(11,618)	(11,735)	(11,852)
Special Fund – Transferred Board <sup>4</sup>	\$49,422	\$59,627	\$73,795	\$76,183	\$78,693

Note: Fiscal 2012 figures reflect the bill's October 1, 2011 effective date.

<sup>1</sup>Reflects a planned fee increase under the transferred board.

<sup>2</sup>Reflects salaries and benefits associated with the two positions that currently provide part-time staff to BES and will remain at MDE.

<sup>3</sup>Reflects administrative costs associated with BES.

<sup>4</sup>Fiscal 2012 and 2013 include a 50% contractual position, while beginning in fiscal 2014, a 50% permanent position is assumed.

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## *Revenues*

Environmental sanitarians currently renew their licenses on a biennial basis. The majority of licensees renew at the end of odd-numbered fiscal years, with a small number renewing in even-numbered fiscal years. Therefore, BES revenues are much higher in odd-numbered fiscal years. Under the bill's October 1, 2011 effective date, most environmental sanitarians will have renewed by June 30, 2011, and the revenues associated with these renewals, an estimated \$71,222, will have accrued to the general fund in fiscal 2011 rather than to the new special fund for the board in fiscal 2012. According to DHMH, if the term of the current sanitarian license could be extended until October 1, 2011, any revenue associated with renewals could also be deferred until that time. This would allow sufficient revenue to accrue to the newly established special fund to support the transferred board. However, this analysis assumes that revenues accrue to the general fund until October 1, 2011, as required under current law.

Even so, beginning in fiscal 2012, general fund revenues associated with BES decline to reflect special funding of the transferred board. General fund revenues decline by an estimated \$12,470 in fiscal 2012, which reflects the bill's October 1, 2011 effective date and any even-numbered fiscal year renewals, and by \$72,646 in fiscal 2013. Future years reflect revenues that would have accrued to the general fund in the absence of the bill.

Conversely, special fund revenues for the transferred board increase by an estimated \$24,939 in fiscal 2012, which reflects the bill's October 1, 2011 effective date and any even-numbered fiscal year renewals. This figure is also based on historical licensing revenues under BES and fee increases proposed by DHMH intended to support the special-funded operation of the board. DLS notes that this figure does not cover the projected special fund expenditures of the new board in the first year. However, under current law, the board has not been generating sufficient general fund revenues to cover expenditures. It is also expected that boards with biennial renewal cycles may not generate sufficient revenues to cover expenses in any given year, but rather sufficient revenues are generated over the full, two-year licensure cycle. Future year revenues reflect 2% growth, consistent with recent history.

## *Expenditures*

Although the Governor's proposed fiscal 2012 budget includes a \$79,896 general fund appropriation for BES under MDE, general fund expenditures decline by only \$8,542 in fiscal 2012, which reflects the bill's October 1, 2011 effective date. This figure represents a reduction in administrative costs associated with BES. An estimated \$67,865 in general fund expenditures continue as they are associated with two personnel who provide part-time staff support to BES but will remain at MDE and continue other functions. In fiscal 2013, general fund expenditures decline by \$11,503, reflecting a full year of administrative expenses.

Special fund expenditures for the transferred board increase by as much as \$49,442 in fiscal 2012, which accounts for the bill’s October 1, 2011 effective date. This estimate reflects the cost of hiring one contractual part-time (50%) program manager to administer the board. It includes a salary, the board’s share of support staff (*i.e.*, legal, fiscal, and information technology support), ongoing operating expenses, and one-time start-up costs. In fiscal 2013, special fund expenditures increase by an estimated \$59,627, which represents full-year costs for the board. Fiscal 2014 expenditures increase to \$73,795 to reflect conversion of the contractual position to a permanent part-time (50%) position (and associated fringe benefits).

DLS anticipates that a contractual position will be used for the first two years to allow the board to complete its transition and build up a special fund balance to support permanent personnel. Historically, BES received significantly less than half-time support from MDE; however, BES members assumed many administrative duties, including creating executive summaries of BES meeting minutes, occasionally responding to correspondence, and updating the board’s website.

	<b><u>FY 2012</u></b>	<b><u>FY 2013</u></b>	<b><u>FY 2014</u></b>
New Contractual Position	0.5		(-0.5)
New Permanent Position			0.5
Salary	\$20,349	\$26,286	\$40,122
Shared Support Staff	14,246	14,388	14,532
Other Operating Expenses	10,512	18,953	19,143
One-time Start-up Costs	<u>4,335</u>	<u>0</u>	<u>0</u>
<b>Total Board Expenditures</b>	<b>\$49,422</b>	<b>\$59,627</b>	<b>\$73,795</b>

Future year expenditures reflect a part-time salary with 4.4% annual increases and 3% employee turnover as well as 1% annual increases in ongoing operating expenses.

DHMH indicates that, under similar board transfers in the past, an executive director from an existing health occupations board has provided staffing during the first year of the “new” board under a shared-cost agreement, with services provided billable at an hourly rate. If staffing is provided to the board under this scenario, personnel expenditures could be significantly reduced in fiscal 2012 and one-time start-up costs would be deferred until fiscal 2013.

## Additional Information

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Kent, Montgomery, Washington, and Worcester counties; Baltimore City; Maryland Department of the Environment; Department of Health and Mental Hygiene; Department of Legislative Services

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