HB 660

Department of Legislative Services

Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE

House Bill 660 (Delegate Davis)
Economic Matters

Streamlined Tax Administration Act of 2013

This bill transfers from the Comptroller's Office to the Department of Labor, Licensing, and Regulation (DLLR) the Field Enforcement Division (FED) and, separately, the regulation of alcohol, motor carrier, motor fuel, and tobacco, including the collection of taxes from their sale. A new Division of Business Regulation and Taxation and an associated special fund are created within DLLR to implement the regulatory and administrative duties transferred under the bill. DLLR must pay to the Comptroller all license fees and tax revenue collected under the bill. The Comptroller must then distribute from the revenues to DLLR the amount necessary to cover DLLR's costs incurred to administer the licensing and taxation responsibilities transferred under the bill.

Fiscal Summary

State Effect: Net general and special fund revenues decline by $6.3 million in FY 2014 as a result of the required transfer of regulatory and administrative duties to DLLR from the Comptroller's Office; this estimate reflects new ongoing expenditures of $2.3 million for DLLR to administer the affected taxes and a related one-time $4.0 million programming expense. Net general and special fund revenues decrease by approximately $3.0 million annually beginning in FY 2015 to reflect the annualization of ongoing expenditures and the elimination of one-time costs. This estimate does not, however, account for any growth in expenditures due to inflation and salary increases. Additional significant foregone revenues cannot be reliably estimated at this time but could exceed $5.0 million in FY 2014, declining each year thereafter to reflect stabilized administration by DLLR.

($ in millions)	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
SF Revenue	$10.3	$8.4	$8.4	$8.4	$8.4
GF/SF Rev.	($10.3)	($8.4)	($8.4)	($8.4)	($8.4)
SF Expenditure	$10.3	$8.4	$8.4	$8.4	$8.4
GF/SF Exp.	($4.0)	($5.4)	($5.4)	($5.4)	($5.4)
Net Effect	($6.3)	($3.0)	($3.0)	($3.0)	($3.0)

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

Local Effect: Potential decrease in local highway user revenues beginning in FY 2014. Expenditures are not affected.

Small Business Effect: Minimal.

Analysis

Bill Summary: FED and, separately, the administration of the alcoholic beverage, motor carrier, motor fuel, and tobacco licensing and taxation are transferred from the Comptroller's Office to DLLR. Specifically, the bill transfers to DLLR all the functions, powers, duties, equipment, assets, liabilities, and employees of the Comptroller under Article 2B of the Code and specified sections of the Business Regulation Article and the Tax-General Article.

The Division of Business Regulation and Taxation is created within DLLR to regulate the sale of the four products and administer the taxes specified in the bill. Specifically, the Secretary of Labor, Licensing, and Regulation must administer the laws that relate to the (1) alcoholic beverage tax; (2) motor carrier tax; (3) motor fuel tax; and (4) tobacco tax.

The Business Regulation and Taxation Fund is established within DLLR to implement the bill. Expenditures from the fund may only be made in accordance with the State budget. Specifically, the fund may only be used for the purpose of administering the:

- licensing and taxation of alcoholic beverages;
- licensing and taxation of cigarettes and other tobacco products;
- licensing and taxation of motor carriers and motor fuel; and
- licensing of transient vendors.

The Secretary must pay to the Comptroller all license fees and tax revenue collected under the bill. The Comptroller must then distribute from the revenues to DLLR the amount necessary to cover DLLR's costs incurred to administer the licensing and taxation transferred under the bill. However, the Comptroller must still pay refunds relating to the taxes upon certification by the Secretary.

An employee transferred under the bill must be appointed without further examination or qualification and must be placed in a classification that is comparable in duties and responsibilities to the employee's former position. The employee's salary or wages, accrued leave, or seniority rights must not be reduced.

The bill makes other conforming changes generally related to the transfer of FED and the administration of the specified taxes to DLLR.

Current Law: The Comptroller is charged with the general supervision of the State's fiscal matters, including collecting taxes, distributing revenues, and administering financial accounts. The agency is divided into eight divisions, with general oversight provided by the Comptroller's Office. The Revenue Administration Division is responsible for processing and collecting various taxes, including the personal income tax, the corporate income tax, and the sales tax. The Revenue Administration Division is also responsible for administering the laws governing the sale, manufacture, storage, transportation, distribution, and promotion of alcohol, tobacco, and motor fuel. The Compliance Division conducts audits and collects delinquent taxes from all revenue sources. FED enforces tax laws by conducting investigations, tests, and inspections.

The General Accounting Division accounts for all State funds received and disbursed and prepares financial reports required by law. The Central Payroll Bureau issues payroll checks and administers the direct deposit transactions for State employees in three separate payroll systems. The Bureau of Revenue Estimates provides estimates of State revenues and formulates recommendations to be submitted to the Governor. The Information Technology Division administers the Annapolis Data Center, which is available to all State agencies on a reimbursable basis.

Department of Labor, Licensing, and Regulation

DLLR includes many of the State's agencies and boards responsible for licensing and regulating various businesses, professions, and trades. DLLR's primary business regulation divisions include the (1) Division of Labor and Industry; (2) Division of Occupational and Professional Licensing; (3) Division of Racing; and (4) Division of Financial Regulation. The department also administers various federally funded unemployment insurance programs through its Division of Unemployment Insurance.

Background: The Comptroller advises that, with the exception of Texas, whose comptroller also administers taxes, the responsibilities of most state comptrollers are largely limited to those of the Comptroller's General Accounting Division – keeping the state's accounts and related functions, not collecting taxes or regulating alcohol, tobacco, or motor fuel. However, the Comptroller advises that its administration of the State's taxes makes it analogous to state revenue or taxation departments. These departments in other states generally administer alcohol, motor fuel, and tobacco taxes, and almost all states regulate tobacco and motor fuel through their revenue departments. Regulation of alcohol is typically performed through a state's revenue department or through an independent board or commission.

As discussed above, the Comptroller’s Office is composed of eight divisions tasked with various administrative and enforcement activities. The Governor’s proposed fiscal 2014 budget for the Comptroller’s Office includes 1,147 positions and $119 million for operations. The largest divisions are the Revenue Administration Division and the Compliance Division, each with approximately 380 positions and a budget of $32 million. The Governor’s proposed fiscal 2014 budget includes 55 authorized positions and $5.4 million for FED.

Comptroller Reorganization

Prior to fiscal 2010, the Motor Fuel, Alcohol, and Tobacco Tax Division within the Comptroller’s Office was responsible for administering the laws governing the sale, manufacture, storage, transportation, distribution, and promotion of alcohol, motor fuel, and tobacco. In fiscal 2010, as a cost-containment measure, the division was merged into the Revenue Administration Division. Due to the merger, 31 of the 35 employees responsible for handling tax return processing associated with the taxes were assigned to the Revenue Administration Division. The remaining four employees were merged into FED.

Revenue Collection

The Comptroller’s Office collects revenue on behalf of both the State and local governments. As shown below in **Exhibit 1**, the majority of State and local revenues collected by the Comptroller’s Office are from the personal income tax and the sales tax: $15.5 billion out of $18.1 billion in fiscal 2012. Conversely, combined revenues for alcohol, motor fuel, and tobacco taxes totaled $1.2 billion in fiscal 2012, or 6.6%.

Exhibit 1
State and Local Revenues Collected by the Comptroller's Office
By Source and Fund – Fiscal 2012
(Dollars in Thousands)

	General	State Special	Local	Total
Personal Income Tax	$7,114,679	$0	$4,349,304	$11,463,984
Corporation Income Tax	646,475	231,458	0	877,933
Sales and Use Tax	4,039,348	37,232	0	4,076,580
Motor Fuel Tax	5,000	728,564	0	733,564
Alcohol Taxes	31,010	0	0	31,010
Tobacco Taxes	411,427	0	0	411,427
Estate Tax	145,240	0	0	145,240
Admissions and Amusement Tax	14,380	2,253	61,604	78,237
Environmental Surcharge on Electricity	0	8,901	0	8,901
Emergency Telephone System Surcharge	0	52,006	0	52,006
Electric Universal Service Program Surcharge	0	39,885	0	39,885
Unclaimed Property	76,296	3,403	0	79,699
Telecommunications Access Surcharge	0	4,726	0	4,726
Tire Recycling Fee	0	3,830	0	3,830
Bay Restoration Fee	0	69,851	0	69,851
Miscellaneous	42,589	1,984	0	44,573
Total	**$12,526,444**	**$1,184,093**	**$4,410,909**	**$18,121,446**

Note: Numbers may not sum to total due to rounding.
Source: Comptroller's Office

Field Enforcement Division

FED is the enforcement arm of the Comptroller's Office and is responsible for regulating the alcohol, motor fuel, and tobacco industries that conduct business in the State. It comprises five sections: enforcement agents; inspectors; motor fuel, alcohol, and tobacco tax regulators; the State License Bureau; and the Motor Fuel Testing Laboratory. The enforcement agents and inspectors are responsible for the detection and enforcement of the revenue laws relating to alcoholic beverage, tobacco, motor fuel, motor carrier, and sales and use taxes. The tasks performed to complete this function include conducting investigations, arresting violators, and performing compliance inspections for proper licenses.

The State License Bureau administers and tracks approximately 20 different business licenses issued by clerks of the courts. These licenses are issued to construction companies and warehouses, hawkers and peddlers, restaurants, and traders, among others. The division's Motor Fuel Testing Laboratory analyzes all incoming petroleum products for quality and verifies the fuel is in compliance with State regulations and specifications, as well as federal guidelines. The laboratory is also equipped to test alcohol when needed. FED is also responsible for regulating the operation of slot machines by certain authorized organizations in nine counties.

State Fiscal Effect: Broadly, the bill (1) transfers FED to DLLR and (2) transfers the administration of alcohol, motor carrier, motor fuel, and tobacco taxes to DLLR. The fiscal impact of each is discussed separately below. As discussed above, the Comptroller must distribute the amount necessary to cover DLLR's costs incurred to administer the licensing and taxation duties transferred under the bill. Thus, any net increase in costs for DLLR under the bill is reflected as an offsetting decrease in general or special fund revenues, depending on the tax administered.

In total, net general and special fund revenues decline by $6.3 million in fiscal 2014 as a result of the required transfer of regulatory and administrative duties to DLLR from the Comptroller's Office; this estimate reflects new ongoing expenditures of $2.3 million for DLLR to administer the affected taxes and a related one-time $4.0 million programming expense. Net general and special fund revenues decrease by approximately $3.0 million annually beginning in fiscal 2015 to reflect the annualization of ongoing expenditures and the elimination of one-time costs. Any growth due to inflation and salary increases has not been reflected in future year expenditures. Additional significant foregone revenues cannot be reliably estimated at this time but they could exceed $5.0 million in fiscal 2014, including:

- foregone revenue from compliance audits conducted by new DLLR staff;
- foregone revenue from any delay in the administration of the affected taxes; and
- foregone revenue from decreased federal, State, and local enforcement agency cooperation and communication associated with any significant turnover in FED enforcement agents – which the Comptroller advises is likely.

This estimate also does not include general expenses associated with physically moving FED from Annapolis to Baltimore City, which would be a one-time expense incurred in fiscal 2014.

Field Enforcement Division Transfer

The bill moves the entirety of FED from the Comptroller's Office to DLLR. In general, FED is a discrete regulatory unit within the Comptroller's Office; however, it does provide support services to other divisions. General and special fund revenues and expenditures for the Comptroller's Office decrease by $4.0 million in fiscal 2014 from the transfer of FED to DLLR. Special fund revenues and expenditures for the Business Regulation and Taxation Fund in DLLR increase correspondingly. General and special fund revenues and expenditures for the Comptroller's Office decrease by approximately $5.4 million beginning in fiscal 2015 to reflect annualization. Special fund revenues and expenditures for DLLR increase correspondingly. Future year expenditures do not reflect growth due to inflation and salary increases.

The Comptroller advises that, even under the bill, it is still responsible for the regulation of certain slot machines by eligible organizations in eligible counties. To the extent that the Comptroller's Office cannot absorb FED functions not transferred under the bill with existing resources from other divisions, general fund expenditures may be necessary for additional staff. This estimate does not reflect these costs.

Administration of Alcohol, Motor Carrier, Motor Fuel, and Tobacco Taxes

The Department of Legislative Services (DLS) advises that, in addition to the transfer of FED, DLLR requires *additional* ongoing resources to administer the alcohol, motor carrier, motor fuel, and tobacco taxes as specified in the bill. These costs are ultimately reflected as a decrease in general or special fund revenues, depending on the tax administered.

The Comptroller's Office's organizational structure is not stratified by tax type; rather, since the reorganization, it is separated by administrative function. For example, the same individual who processes an alcohol tax return may also process returns for the income, sales, or any other tax. This functional stratification includes many administrative duties in the Comptroller's Office, including returns processing, account maintenance, revenue reporting, licensing and bonding, field auditing, legal support, and information technology support. The Comptroller indicates that it would be impossible to remove administrative staff without significantly affecting the administration of the other tax types that account for the majority of transactions and revenue (*i.e.*, the personal income tax and the sales and use tax, as discussed above).

Prior to a fiscal 2010 restructuring, the Comptroller's Office *was* organized in a way that separately administered the taxes specified in the bill. As discussed above, the Motor Fuel, Alcohol, and Tobacco Tax Division was responsible for administering the laws governing the sale, manufacture, storage, transportation, distribution, and promotion of alcohol, motor fuel, and tobacco. The fiscal 2010 budget for the division was $3.0 million and included 33 authorized positions. Thus, DLS assumes that DLLR requires approximately the same level of staffing and resources that the Motor Fuel, Alcohol, and Tobacco Tax Division required in fiscal 2010 to administer the affected taxes. To the extent that there is a corresponding drop in the workload for the Revenue Administration Division due to the transfer of some functions to DLLR, there may be a long-term decrease in staff for the division, but such a decrease will offset only a small portion of the increase for DLLR. This is because the administration of alcohol, tobacco, and motor fuel taxes is a relatively small component of the division's activity as discussed above. Any long-term decrease in staffing for the Comptroller's Office is not reflected in this analysis. Moreover, any such impact would likely be offset by the need to replace staff resources from FED who currently help enforce sales and use taxes and regulate slot machines.

DLS advises that DLLR will likely need to develop a program to administer the motor fuel tax and process returns for the affected taxes, as necessary hardware and software would not be directly transferrable from the Comptroller's Office without interrupting the administration of several other taxes, as the motor fuel tax system is a small component of a system that houses other taxes. However, the Comptroller advises that the alcohol, motor carrier, and tobacco tax programs are generally contained in spreadsheets that could be transferred to DLLR. Additionally, scanners for processing and imaging returns are necessary.

The Comptroller estimates that the costs for development of a system to accommodate motor fuel and process returns for the affected taxes is approximately $4.0 million. DLS assumes this expenditure must occur in fiscal 2014 in order for DLLR to administer the affected taxes and collect approximately $1.2 billion in tax revenue.

Therefore, net special fund expenditures increase for DLLR by $6.3 million in fiscal 2014, reflecting new ongoing expenditures of $2.3 million for DLLR to administer the affected taxes and a related one-time $4.0 million programming expense. Net general and special fund expenditures increase by approximately $3.0 million annually beginning in fiscal 2015 to reflect annualization and the elimination of one-time costs. The costs reflected in this estimate include managerial, professional, legal, and information technology staff; communications; supplies; equipment; and rent. Future year expenditures do not, however, reflect growth due to inflation and salary increases. Special fund revenues increase correspondingly and represent foregone general and special fund revenue, as discussed above.

This estimate does not include any additional human resources or budgetary personnel for DLLR to oversee the hiring of additional employees to administer the affected taxes or to account for the fund transfers between DLLR and the Comptroller's Office as specified in the bill.

Local Fiscal Effect: Local highway user revenues could decrease from any reduction in the collection of motor fuel taxes beginning in fiscal 2014. The amount of any decrease cannot be reliably estimated at this time.

Additional Comments: The fiscal impact of the bill does not include any foregone revenue from the Master Settlement Agreement with tobacco companies due to a decrease in regulatory efficacy – which the Comptroller advises is a risk associated with the transfer of FED under the bill. The Master Settlement Agreement is a revenue source of approximately $130 million annually.

Additional Information

Prior Introductions: None.

Cross File: SB 827 (Senator Garagiola) - Finance and Budget and Taxation.

Information Source(s): Comptroller's Office; Department of Labor, Licensing, and Regulation; Office of the Texas Comptroller; Department of Legislative Services

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Analysis by: Stephen M. Ross

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