

Department of Legislative Services
Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE
Revised

House Bill 365

(Delegate Conway, *et al.*)

Health and Government Operations

Budget and Taxation

Public Safety - Fire, Rescue, and Ambulance Funds - Distribution

This bill alters the distribution of, and permissible uses of, funds from the Senator William H. Amoss Fire, Rescue, and Ambulance Fund (Amoss Fund). Maintenance of Effort (MOE) provisions are altered and certain waivers from MOE provisions, including a rebasing waiver, are established. The bill clarifies that any MOE penalty applies to failure to meet MOE requirements in the second prior fiscal year. The bill makes clarifying additions and other changes to defined terms. The list of “expenditures for fire protection” is altered. Certain unencumbered, unexpended, or withheld monies are deposited in the Amoss Fund, as opposed to the general fund.

The bill takes effect July 1, 2014.

Fiscal Summary

State Effect: State aid amounts for fire and rescue services are not affected. Administrative costs of the State Treasurer’s Office are reduced minimally. Administrative costs of the General Assembly and Board of Public Works increase to the extent that waiver requests are made.

Local Effect: The establishment of waivers may alleviate certain counties from the potential for a penalty that may otherwise occur. To the extent that penalties must be imposed, State aid to noncompliant counties decrease while funding to other counties increases.

Small Business Effect: None.

Analysis

Bill Summary:

Expenditure and Use of Amoss Funds

The list of “expenditures for fire protection” is altered to include revenues appropriated by a county to volunteer fire, rescue, and ambulance companies; to include accounting and financial reporting expenses; and to exclude capital expenditures. The list of permissible uses of Amoss funds is expanded to include: installation of life safety and fire protection systems; acquiring land that is adjacent to an existing facility for the purpose of rehabilitating the facility; and acquiring machinery, equipment, telecommunications devices, computers, and computer equipment, if they are used exclusively for fire protection, rescue, and ambulance services.

Maintenance of Effort Penalties and Waivers

The Director of the Maryland Emergency Management Agency (MEMA) may withhold Amoss funds allocated for the second subsequent fiscal year from a county if the county does not comply with MOE requirements. The Director of MEMA must withhold Amoss funds allocated to a county in the second subsequent year if (1) the county does not comply with MOE requirements for two consecutive years and (2) no waiver is granted by the Board of Public Works or the General Assembly. When MOE requirements are not met (and not waived) for one or two years, the penalty is equal to the percentage by which the county failed to meet the MOE requirement.

A county may request a waiver from the MOE requirement based on a determination that the county’s fiscal condition significantly impedes the county’s ability to fund the MOE requirement. To qualify for a waiver in a fiscal year, a county must seek a waiver from the General Assembly or request a waiver from the Board of Public Works (BPW). BPW must consider specified factors when considering a waiver request. A waiver does not relieve a county of its requirement to make expenditures for fire protection from its own sources that are at least equal to State money to be received.

If a county is granted a MOE waiver, the MOE calculation for the following fiscal year is based on the three most recent fiscal years in which the county met the MOE requirement. If a county is granted a MOE waiver in five consecutive years, the county may request a waiver from BPW to rebase the MOE calculation for the county. The rebased MOE requirement, if granted, is equal to the average amount of expenditures for fire protection from sources other than the Amoss Fund during the three preceding fiscal years.

Additional Provisions

A county must distribute funds to volunteer fire, rescue, and ambulance companies on the basis of need. The bill specifies factors that a county must consider in determining need.

The State Fire Marshal and the Executive Director of the Maryland Institute for Emergency Medical Services Systems must, respectively, certify to MEMA whether a county has participated in the Maryland Fire Incident Reporting and the Ambulance Information systems.

A county may withhold money allocated for the next fiscal year from a fire, rescue, or ambulance company that does not comply with requirements for Amoss funding – money withheld must be reallocated by the county to compliant companies. Amoss funds may be accounted for in a format developed by the Director of MEMA, as an alternative to being audited in accordance with the procedures for accounting and auditing of other governmental revenues. A county may reallocate Amoss funds if a written agreement to encumber money between a county and a volunteer fire department becomes null and void.

A county or municipality may deposit Amoss funds in a bank account with other county or municipal funds. The State Treasurer is no longer required to make quarterly disbursements of Amoss funds and, instead, must make annual disbursements to counties. The reporting requirement regarding volunteer companies is incorporated into the language governing reporting requirements for other Amoss Fund recipients. Certain obsolete language is either repealed or updated, as appropriate.

Current Law: The Senator William H. Amoss Fire, Rescue, and Ambulance Fund provides grants to local jurisdictions for the purchase of fire and rescue equipment and capital building improvements. These grants are administered by MEMA.

Chapters 331 and 332 of 2013 required the percentage of Amoss funds to be distributed by each county to volunteer fire, rescue, and ambulance companies to be equal to the same total percentage of funds distributed to such companies from the Amoss Fund in fiscal 2011 or at least 51% of the allocation received by each county under the current distribution methodology, whichever is greater.

Distributions are made according to each county's percentage of total property tax accounts relative to the statewide total. Each county is guaranteed a minimum 2% share of total funds, in addition to the amounts that are distributed to qualifying municipalities. Each county must expend funds for fire protection from its own sources that are at least equal to the amount of State funds to be received. To receive Amoss funds, each county

must participate in the Maryland Fire Incident Reporting System and the Ambulance Information System.

The MOE provision of current law requires that for each fiscal year, a county must make expenditures for fire protection from its own funds that are equal to the average amount of expenditures for fire protection during the three preceding fiscal years. Failure to meet the MOE requirement may result in no funding for the county for a fiscal year or a penalty equal to the percentage by which the county failed to meet the MOE requirement. Money withheld from a county not complying with the MOE requirement or the requirement to at least match State money received with county expenditures for fire protection is distributed to counties that meet these requirements.

Each county must distribute Amoss funds on the basis of need to fire, rescue, and ambulance companies; departments; or stations in the county. Each county must determine need in accordance with procedures that the county uses to adopt its budget. In determining need, the county must consider all relevant factors, as specified, as well as the company's inability to raise money to pay for an item.

Money distributed and allocated to a county must be accounted for and audited in accordance with the procedures for accounting and auditing of other governmental revenues. Money not expended by the county by the end of a fiscal year must be placed in a special fund for expenditure in the next succeeding fiscal year. Distributed money that remains unencumbered or unexpended by the county after the second fiscal year must be repaid to MEMA for deposit in the State's general fund.

Money distributed to be expended by a volunteer or municipal fire, rescue, or ambulance company must be maintained in a separate account and must be audited in the same manner as other money of the volunteer or municipal company. Copies of the audit of the separate account must be submitted to the respective county government and to MEMA.

The Director of MEMA must report by December 31 of each year to the General Assembly on the amount of money distributed by each county to volunteer fire, rescue, and ambulance companies. These provisions do not apply to Baltimore City or distributions made to fire, rescue, and ambulance companies, departments, or stations located in qualified municipalities in accordance with specified current law restrictions. Also, by December 31 of each year, each county is required to submit a report to MEMA for the preceding fiscal year that states:

- the amount of money distributed to each recipient and the purpose of the expenditure of this money;

- the amount and disposition of any unencumbered or unexpended money;
- the amount of expenditures for fire protection by the county;
- the amount of money distributed to volunteer companies from sources other than the Amoss Fund; and
- the nature and estimated dollar amount of any in-kind contributions made by the county to volunteer companies.

Each county must provide a copy of this report to the Department of Legislative Services. Each year MEMA must report to the Governor and the General Assembly on the information provided by the counties on the distribution of Amoss Fund money, including an assessment of the extent to which the purposes of the fund are being achieved.

The Director of MEMA may withhold money allocated to a county for the next fiscal year if the county is not compliant with law regarding distribution and use of Amoss funds. Any money withheld reverts to the State's general fund.

Background: Chapters 331 and 332 of 2013 created a Workgroup to Study the Laws and Policies Related to the Distribution of Money to Volunteer and Career Companies, with a final report due by December 1, 2013. The workgroup was required to (1) study the adequacy of State laws and policies related to the distribution of money to volunteer and career fire companies and (2) consider and make recommendations regarding options for the distribution of State funds to volunteer and career fire companies. The bill reflects the recommendations of the workgroup.

Chapter 429 of 2013 indicated the intent of the General Assembly that the Governor increase the annual appropriation to the Amoss Fund (from \$10.0 million) to \$11.7 million in fiscal 2015, \$13.3 million in fiscal 2016, and \$15.0 million in fiscal 2017. Accordingly, the proposed fiscal 2015 State budget includes \$11.7 million for the Amoss Fund. Distributions from the fund to local jurisdictions for fiscal 2012 through 2015 are shown in **Exhibit 1**.

Exhibit 1
State Aid for Local Fire and Rescue Services
Under the Senator Amoss Fund

County	Fiscal 2012	Fiscal 2013	Fiscal 2014	Fiscal 2015
Allegany	\$219,596	\$237,989	\$225,566	\$263,912
Anne Arundel	812,952	812,218	812,434	950,548
Baltimore City	928,437	924,493	914,715	1,070,217
Baltimore	1,164,671	1,161,358	1,152,196	1,348,069
Calvert	200,000	200,000	200,000	234,000
Caroline	208,629	208,526	207,224	242,452
Carroll	260,536	259,836	257,864	301,701
Cecil	205,729	206,005	206,103	241,141
Charles	244,353	245,821	246,708	288,648
Dorchester	206,712	203,200	208,002	243,362
Frederick	365,103	365,414	364,650	426,641
Garrett	200,000	200,000	200,000	234,000
Harford	382,384	382,386	379,429	443,932
Howard	399,636	399,616	400,600	468,702
Kent	203,418	205,098	205,063	239,924
Montgomery	1,307,365	1,303,272	1,299,253	1,520,126
Prince George's	1,141,134	1,137,447	1,129,872	1,321,950
Queen Anne's	200,000	200,000	200,000	234,000
St. Mary's	200,000	200,000	200,000	234,000
Somerset	208,907	208,751	208,289	243,698
Talbot	215,767	216,023	257,411	301,171
Washington	231,614	230,631	228,322	267,137
Wicomico	231,663	232,056	238,943	279,563
Worcester	261,394	259,860	257,356	301,107
Total	\$10,000,000	\$10,000,000	\$10,000,000	\$11,700,000

State Fiscal Effect: Under current law, certain monies that are withheld due to noncompliance revert to the State's general fund. Under the bill, these monies revert to the Amoss Fund. However, money withheld from a county that does not comply with the MOE requirement or the requirement to at least match State money received with county expenditures for fire protection is distributed to counties that meet these requirements. Further, as discussed in greater detail in the "Local Fiscal Effect" section, the removal of capital expenditures from the MOE calculation and the availability of waivers under the bill are expected to result in modest and infrequent withholding of Amoss funds. Therefore the effect upon the general fund is anticipated to be negligible.

The provision requiring annual, instead of quarterly, payments to counties may relieve the State Treasurer's Office of some administrative costs, but any effect will be minimal.

Administrative costs of the General Assembly and Board of Public Works increase to the extent that waiver requests are made. The removal of capital expenditures from the calculation of the MOE requirement is anticipated to minimize the need for waiver requests from most counties.

Local Fiscal Effect: Altering the definition of "expenditures for fire protection" to exclude capital expenditures and to include accounting and financial reporting expenses could have both positive and negative effects on a particular municipality's ability to qualify for aid by meeting the \$25,000 minimum expenditure requirement. However, the Military Department advises that the change is unlikely to impact the ability of municipalities to qualify for funding.

Altering the definition of "expenditures for fire protection" as described above also alters what is counted toward a county's MOE compliance. Annual reports submitted by MEMA for fiscal 2010 and 2011 indicate that in both years 11 of 24 counties fell short of the current MOE requirement. However, in both years most counties failing to meet the MOE requirement met 90% or more of the requirement. Removing capital expenditures (which amounted to 17% of the use of Amoss funds in fiscal 2011) from the MOE requirement will enhance a county government's ability to meet MOE in future years, thus reducing the likelihood of any penalty.

The establishment of waivers may also alleviate certain counties from the potential for a penalty that may otherwise occur. In practice, though several jurisdictions have failed to meet MOE requirements, penalties have not been imposed in the past several years. The bill, however, requires the Director of MEMA to withhold Amoss funds allocated to a county if (1) the county does not comply with MOE requirements for two consecutive years and (2) no waiver is granted by the Board of Public Works or the General Assembly. The penalty is equal to the percentage by which the county failed to meet the MOE requirement during the second prior fiscal year. To the extent that penalties are imposed, counties that are compliant gain additional Amoss funding.

Additional Information

Prior Introductions: None.

Cross File: SB 254 (Senator Glassman, *et al.*) (Chair, Workgroup to Study the Laws and Policies Related to the Distribution of Money to Volunteer and Career Companies) - Budget and Taxation.

Information Source(s): City of Bowie, Charles County, Department of Budget and Management, Maryland Institute for Emergency Medical Services Systems, Department of General Services, Comptroller's Office, Military Department, Department of State Police, Maryland State Treasurer's Office, University System of Maryland, Department of Legislative Services

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