

Department of Legislative Services
 Maryland General Assembly
 2017 Session

FISCAL AND POLICY NOTE
 Third Reader - Revised

House Bill 250 (Chair, Economic Matters Committee)(By Request -
 Departmental - Labor, Licensing and Regulation)
 Economic Matters Education, Health, and Environmental Affairs

State Board of Barbers and State Board of Cosmetologists - Special Fund and Fees

This departmental bill establishes the State Barbers and Cosmetologists Boards’ Fund in the Department of Labor, Licensing, and Regulation (DLLR); repeals statutory fees and instead authorizes the State Board of Barbers and the State Board of Cosmetologists to set fees by regulation; and redirects licensing revenue associated with the boards from the general fund to the new special fund. Penalty revenue and investment earnings continue to accrue to the general fund. Existing statutory fees remain in effect until new fees adopted by the boards in regulation take effect.

The bill takes effect July 1, 2018.

Fiscal Summary

State Effect: No effect in FY 2018. Special fund revenues for DLLR increase by \$1.2 million annually beginning in FY 2019 from license revenue, with \$100,000 retained as fund balance each year. Special fund expenditures for DLLR increase correspondingly to continue existing operations, hire two additional staff, and make required reversions. Net general fund revenues decrease by \$0.9 million to \$1.0 million annually beginning in FY 2019 from foregone license revenue, offset in part by required reversions. General fund expenditures decrease by \$0.7 million annually beginning in FY 2019 as the boards are no longer funded with general fund appropriations. The net effect is generally the cost of two additional staff and a portion of the indirect costs assessed on the boards by DLLR.

(in dollars)	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
GF Revenue	(\$989,000)	(\$889,700)	(\$900,100)	(\$910,900)	(\$922,200)
SF Revenue	\$1,152,100	\$1,200,500	\$1,152,100	\$1,200,500	\$1,152,100
GF Expenditure	(\$690,500)	(\$694,000)	(\$697,500)	(\$700,900)	(\$704,500)
SF Expenditure	\$1,052,100	\$1,200,500	\$1,152,100	\$1,200,500	\$1,152,100
Net Effect	(\$198,400)	(\$195,700)	(\$202,700)	(\$210,000)	(\$217,700)

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

Local Effect: None.

Small Business Effect: DLLR has determined that this bill has a meaningful impact on small business (attached). The Department of Legislative Services disagrees with this assessment, as discussed below. (The attached assessment does not reflect amendments to the bill.)

Analysis

Bill Summary:

Barbers and Cosmetologists Fund

The State Barbers and Cosmetologists Boards' Fund is established as a special, nonlapsing fund and consists of fees collected from the State Board of Barbers and the State Board of Cosmetologists in DLLR.

The fund must be used to cover the actual documented direct and indirect costs of fulfilling the statutory and regulatory duties of the two boards. At the end of each fiscal year, any unspent and unencumbered portion of the special fund in excess of \$100,000 reverts to the general fund. The legislative auditor must audit the fund. License revenue accrues to the special fund; however, investment earnings and penalty revenue accrue to the general fund.

Fees Set by Regulation, Costs May Be Averaged Across Boards

License fees are repealed from statute, and each board is instead authorized to establish fees by regulation. Each board must set fees based on its direct and indirect costs, as determined by the Secretary of Labor, Licensing, and Regulation. The fees charged must be set so as to produce funds approximate to the cost of maintaining the boards. Provided that the boards consent, the Secretary may average the direct and indirect costs of the boards in order to establish fees that more equitably distribute the costs associated with the operation of each board. Unless otherwise provided by law, each board must pay all fees to the Comptroller, who then distributes the fees to the special fund.

Except for examination fees, each fee established by the boards may not be increased by more than 12.5% of the existing and corresponding fee. Each board must publish a schedule of the fees it sets by regulation.

Current Law/Background: The bill establishes a joint special fund for the barber and cosmetology boards in much the same way as Chapter 227 of 2003 established a special fund for the five design boards. The boards license and regulate the barbering and

cosmetology industries to the extent provided for in State law. Combined, the boards have approximately 55,000 licensees.

DLLR advises that cost containment measures in recent years have significantly reduced resources available to the boards for staffing and inspections. In addition to the director, only three other staff are assigned to the boards. By contrast, the Real Estate Commission, which is special funded and has a similar number of total licensees, has a staff of 17, including 2 senior managers, 5 investigators, a paralegal, and a board secretary.

Continued cost containment has hampered the ability of the barber and cosmetology boards to carry out even basic regulatory duties. Of all the boards and commissions in the Division of Occupational and Professional Licensing, these boards generate the most industry complaints. Applicants and licensees do not receive timely return of phone calls, have to use a paper license application process, and may not have access to experienced staff for questions. DLLR advises that there are also more serious problems, including delays in the inspection of new businesses and serious injuries not being investigated in a timely fashion.

These issues were highlighted in a 2009 sunset review report by the Department of Legislative Services, which recommended a special fund for the barber and cosmetology boards to increase staff and allow the boards to eliminate backlogs, maintain enforcement standards, and provide timely licensure. The recommendation was not adopted by the General Assembly at that time.

Licensing fee revenues from the boards have significantly exceeded their general fund operating expenditures due to the combination of cost containment and consistent revenue streams. For example, revenues exceeded expenditures by \$497,000 in fiscal 2015 and \$430,000 in fiscal 2016, and are anticipated to exceed expenditures by \$540,000 in fiscal 2017. In some years, board expenditures are about half of the license revenue they collect.

State Fiscal Effect:

Barbers and Cosmetologists Special Fund and Indirect Costs

Beginning July 1, 2018, the boards' licensing revenue accrues to the barbers and cosmetologists special fund. Accordingly, special fund revenues increase by \$1.2 million annually beginning in fiscal 2019 from license revenue.

As noted above, the barber and cosmetology boards have consistently collected more revenue each year than their general fund appropriations. Creating a dedicated funding stream allows DLLR to hire much-needed staff to assist in the regulation of the affected

industries. Therefore, special fund expenditures increase by \$152,614 in fiscal 2019, which assumes new staff are in place on the bill's July 1, 2018 effective date. This estimate reflects the cost of hiring one investigator and one administrative staff to assist the boards with their ongoing regulatory responsibilities. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Positions	2
Salaries and Fringe Benefits	\$139,409
Other Operating Expenses	<u>13,205</u>
New FY 2019 Board Staff Expenditures	\$152,614

Future year expenditures reflect full salaries with annual increases and employee turnover and ongoing operating expenses.

When the costs of additional staff are combined with the cost of board operations, indirect costs, and required reversions, barbers and cosmetologists special fund expenditures increase by \$1.1 million to \$1.2 million annually beginning in fiscal 2019.

DLLR advises that indirect costs charged to the barber and cosmetology boards will be approximately \$55,900 annually beginning in fiscal 2019, but that these charges will offset indirect costs charged to other special-funded boards in the department. Two existing special funds in DLLR have reversion provisions and must revert any fund balance above a certain threshold to the general fund at the end of each fiscal year.

In fiscal 2016, about 82% of DLLR's indirect costs were assessed to special funds without reversions. Assuming that indirect cost offsets are applied according to that same ratio, then about \$45,800 (82%) of the \$55,900 indirect cost allocation to the barber and cosmetology boards represents foregone general fund revenues.

Exhibit 1 shows a five-year projection of the barbers and cosmetologists special fund established under the bill. This analysis assumes a stable number of licensees, that all fees remain at existing levels, and that the current revenue pattern continues with more revenues collected in even-numbered years than in odd-numbered years. To the extent that fees are decreased to more closely match the boards' direct and indirect costs, less money is available for general fund reversions.

Exhibit 1
Barbers and Cosmetologists Special Fund Projection
Fiscal 2019-2023

	<u>FY 2019</u>	<u>FY 2020</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>
Beginning Balance	\$0	\$100,000	\$100,000	\$100,000	\$100,000
Revenue	1,152,074	1,200,494	1,152,074	1,200,494	1,152,074
Total Available Funds	\$1,152,074	\$1,300,494	\$1,252,074	\$1,300,494	\$1,252,074
Existing Costs	\$690,536	\$693,988	\$697,458	\$700,945	\$704,450
New Staff Costs	152,614	149,889	156,818	164,143	171,891
Indirect Costs	55,894	55,894	55,894	55,894	55,894
Total Costs	\$899,044	\$899,771	\$910,170	\$920,983	\$932,235
Balance Before Reversion	\$253,030	\$400,723	\$341,903	\$379,511	\$319,839
Reversion	153,030	300,723	241,903	279,511	219,839
End of Year Balance	\$100,000	\$100,000	\$100,000	\$100,000	\$100,000

Note: Numbers may not sum to total due to rounding. There is no effect in fiscal 2018.

Source: Department of Labor, Licensing, and Regulation; Department of Legislative Services

General Fund

Beginning July 1, 2018, barber and cosmetologist licensing revenue no longer accrues to the general fund and instead accrues to the barbers and cosmetologists special fund. However, the bill requires that any unspent and unencumbered fund balance in excess of \$100,000 revert to the general fund at the end of each year. In addition, approximately 18% of DLLR's indirect cost assessment (discussed above) will revert to the general fund through reversion provisions of other existing special funds.

Accounting for all three effects, net general fund revenues decrease by approximately \$1.0 million in fiscal 2019 and by \$0.9 million annually thereafter. Penalty revenue and interest continue to accrue to the general fund and are, therefore, unaffected by the bill.

General fund expenditures decrease by approximately \$0.7 million annually beginning in fiscal 2019 as the boards are no longer funded through general fund appropriations. This analysis assumes staffing levels would remain unchanged if the boards were still general funded.

Accordingly, the net impact on the general fund equates to approximately \$195,000 to \$220,000 less in revenues each year beginning in fiscal 2020. In fiscal 2019, the ability to retain \$100,000 in the new special fund results in a one-time impact on the general fund, with the net impact that year being slightly higher, at approximately \$298,000.

Small Business Effect: While small businesses in the affected industries may benefit from increased regulatory oversight, the overall effect on any individual business is minimal.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Labor, Licensing, and Regulation; Department of Legislative Services

Fiscal Note History: First Reader - February 6, 2017
mm/mcr Revised - Correction - March 13, 2017
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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: **Labor, Licensing and Regulation - Occupational and Professional Licensing - Board of Barbers and the Board of Cosmetologists**

BILL NUMBER: HB 250

PREPARED BY: Victoria Wilkins

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

Many of the 55,000 licenses we issue in these two boards are to shop owners that are small businesses. To the extent that licensed barbers and licensed cosmetologists themselves are their own small business owners within a business, this would positively impact them as well. Licenses would be issued faster, and more accurate information would be given to those seeking licensure.

Impact on Local Government

This legislation does not impact local government.