SB 811

Department of Legislative Services

Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
Third Reader

Senate Bill 811 (Senator Zirkin, *et al.*)

Judicial Proceedings Judiciary

Civil Cases - Maryland Legal Services Corporation Fund - Surcharges - Repeal of Sunset

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This bill repeals the termination date of the provisions of law that increased the surcharge on fees, charges, and costs in civil cases. Repealing the termination date continues maximum surcharges of $55 on civil cases filed in the circuit court, $8 for summary ejectment cases, and $18 for all other civil cases in the District Court. Money from the surcharge is deposited into the Maryland Legal Services Corporation (MLSC) Fund, which is used to finance civil legal services to indigent clients. Repealing the termination date also continues the requirement for MLSC to submit, for informational purposes only, its budget to the General Assembly.

Fiscal Summary

State Effect: Special fund revenues increase by $5.8 million annually beginning in FY 2019, assuming the maximum surcharges are imposed and the number of cases remains constant. Special fund expenditures increase correspondingly. This maintains current funding levels. In addition, the bill may improve operational efficiency for the Judiciary to the extent it decreases the number of *pro se* litigants.

($ in millions)	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
SF Revenue	$0	$5.8	$5.8	$5.8	$5.8
SF Expenditure	$0	$5.8	$5.8	$5.8	$5.8
Net Effect	$0.0	$0.0	$0.0	$0.0	$0.0

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

Local Effect: The bill may increase operational efficiency in the circuit courts to the extent it decreases the number of *pro se* litigants.

Small Business Effect: Minimal.

Analysis

Current Law/Background: MLSC was established by the Maryland General Assembly in 1982. It receives and distributes funds to nonprofit grantees that provide legal assistance to eligible clients in civil cases.

The Governor is required to appropriate at least $1.5 million annually to support the activities of MLSC. This money comes from the State Unclaimed Property Fund. Additionally, lawyers are required to place small or short-term client trust funds into an Interest on Lawyer Trust Account (IOLTA), the interest on which is paid into the MLSC Fund.

In addition to these funds, a surcharge on filing fees in circuit court civil cases and District Court civil and summary ejectment cases is also deposited into the MLSC Fund. Prior to July 1, 2010, the maximum surcharge on civil cases in the circuit courts was $25. In the District Court, the maximum surcharges were $5 for summary ejectment cases and $10 for all other civil cases.

The funds collected from the IOLTA, the surcharge, and the abandoned property funds are deposited by the Administrative Office of the Courts into the MLSC Fund, which MLSC then distributes in the form of grants to various organizations that perform the legal assistance services. As a result of the economic recession and the subsequent decline in interest rates, revenues from IOLTA earnings began to decline in fiscal 2009.

Due to declining IOLTA revenue, as well as an increasing demand for legal services, the General Assembly passed Chapter 486 of 2010, which increased the maximum surcharge on civil cases filed in circuit courts from $25 to $55. In the District Court, the maximum authorized surcharge also increased from $5 to $8 for summary ejectment cases and from $10 to $18 for all other civil cases. The higher maximum surcharge increased filing fee revenue between fiscal 2010 and 2011, which allowed MLSC to increase grant funding levels to pre-2010 levels while relying less heavily on its reserve fund. Pursuant to Chapter 486, the increased surcharges were set to terminate June 30, 2013. Chapters 71 and 72 of 2013 extended the termination date to June 30, 2018.

The Judiciary advises that the expiration of the surcharge increases, coupled with the fact that the number of case filings eligible under this surcharge have been declining as well, will lead to an estimated 45% drop in filing fee revenue for MLSC and an estimated 35% overall drop in total MLSC Fund revenue.

The expiration of the surcharge increases and the continuing decline in IOLTA revenues are projected to have a major effect on the level of grant expenditures. Should the termination of Chapter 486 of 2010 as amended by Chapters 71 and 72 of 2013 become effective, MLSC will not be able to maintain its current funding level. Since MLSC's creation, it has made grants of more than $250.0 million. In fiscal 2016, grants of $18.4 million were awarded to 36 legal services providers. From those funds, more than 236,532 individuals and families received legal assistance in matters such as foreclosure, eviction, domestic violence, child custody, employment, and other issues. These grants also support legal services to the homeless and immigrant communities.

State/Local Fiscal Effect: Revenues from the filing fee surcharge are projected to be $7,001,350 in fiscal 2019 if the provisions authorizing the increased surcharge terminate. Special fund revenues from the filing fee surcharge in fiscal 2018, the last year for which the increased surcharges are authorized, are estimated at $12,800,006. Therefore, if the number of cases for which the surcharge is imposed and collected remains constant, special fund revenues increase by $5,798,656 annually beginning in fiscal 2019, which reflects continuation of the increased surcharge and maintains current funding levels. Special fund expenditures increase correspondingly as MLSC uses the surcharge revenue to award grants to legal service providers.

Because grant funding to legal service providers decreases if the higher surcharges terminate June 30, 2018, the number of *pro se* litigants (individuals who are self-represented) is likely to increase. The Judiciary advises that *pro se* litigants require significantly more time from the District Court and the circuit courts. Accordingly, the bill may improve operational efficiency for the Judiciary to the extent it decreases the number of *pro se* litigants.

Additional Information

Prior Introductions: As introduced, SB 640 of 2013 and its cross file, HB 838, would have repealed the termination date. Both bills were amended to extend the termination date and enacted as Chapters 71 and 72 of 2013, as discussed above.

Cross File: HB 972 (Delegate Dumais, *et al.*) - Judiciary.

Information Source(s): Judiciary (Administrative Office of Courts); Maryland Legal Services Corporation; Department of Legislative Services

Fiscal Note History:	First Reader - February 20, 2017
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Analysis by: Jennifer K. Botts

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