

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 684 (The President)(By Request - Administration)
Education, Health, and Environmental Affairs

Liquor Board Reform Act of 2017

This Administration bill makes various changes to the nomination and selection process for members of a local board of license commissioners and local liquor control boards in specified jurisdictions. The bill also requires prospective board members in specified jurisdictions to receive a criminal history background check, and subjects these board members to State ethics requirements and the authority of the State Ethics Commission.

The bill takes effect July 1, 2017.

Fiscal Summary

State Effect: The bill does not materially affect State operations or finances.

Local Effect: The bill does not materially affect local governmental operations or finances.

Small Business Effect: The Administration has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services concurs with this assessment.

Analysis

Bill Summary: The bill designates a member of a board of license commissioners or a liquor control board as a “State official,” thereby subjecting those members to the ethics requirements for State officials. Board members are not designated as State officials in counties in which a county council or board of county commissioners sits as the board of license commissioners or liquor control board.

The bill makes the following changes to the board of license commissioners nomination and selection process in Allegany, Anne Arundel, Calvert, Caroline, Garrett, St. Mary's, Somerset, Talbot, Washington, Wicomico, and Worcester counties.

- At least 120 days before a member's term expires, or within 30 days after a member vacates a board position before his or her term expires, the board must notify the county's Senate delegation to the Maryland General Assembly and the Governor that a board position requires appointment. Within 30 days after receiving the notification, the Senate delegation must nominate to the Governor one or more candidates for appointment to the board position. In Caroline County, the House delegation, not the Senate delegation, is involved in the notification and nomination process.
- Each individual nominated to a board of license commissioners must apply to the Central Repository for a State and national criminal history records check. As part of the check, the nominee must submit fingerprints and the required State and federal processing fees. The Central Repository must forward its findings to the Governor and the nominee. Information obtained through the records check is confidential, may not be redisseminated, and may be used only for the board appointment process. The subject of the records check may contest the contents.

For the Baltimore City Board of License Commissioners, the Central Repository must forward its findings to the Mayor of Baltimore City or the President of the Baltimore City Council, as appropriate, as well as the nominee. The board must also notify the mayor, the president of the city council, and the city's Senate delegation to the Maryland General Assembly at least 120 days before a member's term expires, or within 30 days after a member vacates a board position before his or her term. The Senate delegation must then nominate a candidate to either the mayor or president of the city council depending on who nominated the original board position. The bill increases the time period within which the mayor or president of the city council, as appropriate, is required to fill a board vacancy from 15 to 90 days.

For the Prince George's County Board of License Commissioners, in addition to meeting the above nomination, selection, and criminal history check requirements, the bill repeals existing procedures for choosing a new member when there is a vacancy on the board.

For Wicomico County, the above nomination, selection, and criminal history check requirements also apply to the Wicomico County Liquor Control Board.

Current Law/Background:

Local Boards of License Commissioners, Local Liquor Control Boards, and Local Ethics

The boards of license commissioners in each county, Baltimore City, and the City of Annapolis are responsible for issuing alcoholic beverages licenses (the Comptroller's Office also issues some licenses) and generally administering the Alcoholic Beverages Article for their respective local jurisdictions. Generally, board members are considered "local officials" and must adhere to local ethics laws and are subject to local ethics commissions; however, some boards are State entities, and the members are subject to State ethics requirements.

The Maryland Public Ethics Law requires each county, municipality, and local school board to enact provisions governing the public ethics of local officials related to conflicts of interest, financial disclosure, and lobbying. The ethics laws of a county or municipality must be similar to, or substantively similar to, the State Public Ethics Law but may be more stringent based on local circumstances where more stringent provisions are necessary to prevent conflicts of interest. However, the ethics laws for a local elected official or school board member must be at least as stringent as State Public Ethics Law. Similarly, the financial disclosure laws of a county, municipality, or school board must equal or exceed the requirements of the State Public Ethics Law and may be modified, if necessary, to make the provisions relevant to the prevention of conflicts of interest in the jurisdiction. Chapter 201 of 2016 clarified that the public ethics requirements adopted or modified by a county, municipality, or local school board must be made in accordance with regulations adopted by the State Ethics Commission and consistent with the intent of the Public Ethics Law.

Ethics Requirements for State Officials

Generally, a State employee or official may not participate in a matter if the employee or official encounters a conflict of interest, with specified exceptions. For example, an interest of a member of the General Assembly conflicts with the public interest if the legislator's interest tends to impair the legislator's independence of judgment. In this case, the conflict disqualifies the legislator from participating in any legislative action or otherwise attempting to influence any legislation to which the conflict relates.

Most public officials, all State officials, and candidates to be State officials are also required to file financial disclosure statements on an annual basis. This statement must be filed under oath with the State Ethics Commission before April 30 of each year, and it covers the calendar year that precedes the filing.

Criminal Justice Information System Central Repository

The Criminal Justice Information System (CJIS) Central Repository within the Department of Public Safety and Correctional Services collects, manages, and disseminates Maryland Criminal History Record Information (CHRI) for criminal justice and noncriminal justice (e.g., employment and licensing) purposes. The CJIS Central Repository uses a fingerprint-supported system for positive identification. When a state mandates a national check, the Federal Bureau of Investigation requires that the requirement for a national check be set in statute. The CJIS Central Repository is authorized by law to collect a fee for providing a CHRI check for purposes other than criminal justice.

The cost for a full State and national CHRI check is \$30, plus an additional \$20 fee for the cost for fingerprints taken by the CJIS Central Repository. An applicant may have fingerprinting performed by a private provider, in which case fingerprinting fees may vary.

Additional Information

Prior Introductions: None.

Cross File: HB 897 (The Speaker) (By Request - Administration) - Economic Matters.

Information Source(s): Baltimore City; Caroline County; Governor's Office; Department of Public Safety and Correctional Services; State Ethics Commission; Department of Legislative Services

Fiscal Note History: First Reader - February 17, 2017
fn/tso

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Liquor Board Reform Act of 2017

BILL NUMBER: SB 684/HB 897

PREPARED BY: GLO
(Dept./Agency/GLO)

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

 X WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND
SMALL BUSINESSES

OR

 WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND
SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS