

Department of Legislative Services
Maryland General Assembly
2019 Session

FISCAL AND POLICY NOTE
Third Reader

Senate Bill 671

(The President)(By Request - Department of Legislative Services)

Education, Health, and Environmental Affairs

Environment and Transportation

State Board of Well Drillers - Fee Setting, Sunset Extension, and Program Evaluation

This bill extends the termination date of the State Board of Well Drillers by 10 years to July 1, 2031, and requires a preliminary sunset evaluation of the board by December 15, 2028. The bill also requires the board to set license fees for the issuance and renewal of licenses at levels sufficient to cover actual direct and indirect costs of regulating the well drilling industry. **The bill takes effect July 1, 2019.**

Fiscal Summary

State Effect: General fund revenues are maintained beyond FY 2021 and increase beginning in FY 2020 due to the required increase in license fees. General fund expenditures for the board are maintained beyond FY 2021. The Governor's proposed FY 2020 budget includes \$114,762 in general funds for the board.

Local Effect: None.

Small Business Effect: Minimal, as discussed below.

Analysis

Current Law/Background:

State Board of Well Drillers

Well drillers in Maryland became regulated 50 years ago when the State Board of Well Drillers was created by Chapter 584 of 1968. Prior to passage of that legislation, only

well construction had been regulated as a means of protecting the State's water resources. The board determines the circumstances under which an individual may engage in the practice of well drilling, which include (1) making, altering, repairing, or sealing a well for profit or (2) installing, altering, repairing, or disconnecting well system equipment for profit. While the board was originally established under the Department of Natural Resources, it currently resides within the Maryland Department of the Environment (MDE) and is grouped with one other board (the State Board of Waterworks and Waste Systems Operators). The board is strictly a licensing board and is charged with the responsibility of licensing well drillers working in Maryland.

Maryland Program Evaluation Act

The board is 1 of approximately 70 regulatory entities and activities currently subject to periodic evaluation under the Maryland Program Evaluation Act (§ 8-401 *et seq.* of the State Government Article). The Act establishes a process better known as "sunset review" because most of the agencies subject to review are also subject to termination, including the board, which is scheduled to terminate July 1, 2021.

The Department of Legislative Services (DLS) conducted a preliminary evaluation of the board in 2018, [*Preliminary Evaluation of the State Board of Waterworks and Waste Systems Operators*](#). This bill implements DLS's primary recommendations stemming from the preliminary sunset evaluation report, which were approved by the Legislative Policy Committee.

DLS found that the board appears to be operating within its statutory authority and meeting its mandated duties and that there is a continued need for regulation of well drillers. Thus, DLS recommended (1) waiving the board from a full evaluation and (2) extending the termination date of the board by 10 years to July 1, 2031. DLS also recommended that statute be amended to require that fees be set at a level such that revenues generated by the board are sufficient to cover its expenditures, which this bill does.

Board Finances and Fee Levels

The appropriation for the board comes from the general fund. Likewise, all revenue collected by the board is deposited into the general fund. These revenues are generated through the collection of licensing and other miscellaneous fees. Licenses are renewed biennially in odd-numbered years and make up the vast majority of board revenues. In addition, civil penalties are paid into the general fund. The various fees collected by the board are established by the board through regulation. Revenue and expenditure data from fiscal 2013 through 2018 are shown in **Exhibit 1**.

In 2016 a majority of board fees were reduced to pre-2010 levels as part of a broader effort by the Governor to reduce administrative fees. Prior to the adoption of the 2016 regulations, the board’s revenue in odd-numbered years (when license renewal fees are collected) was enough to make up for the minimal revenue in even-numbered years (when license renewal fees are not collected). **Exhibit 2**, below, summarizes the fee structure for licenses and miscellaneous fees as adopted in 2010 and modified in 2016.

Expenditures in fiscal 2016 were substantially below normal levels because of the departure of the board’s executive director. As there was a delay in filling the position, the board did not have to pay that salary, which is the bulk of its annual operating expenses. Had the board paid the salary, the board likely would have experienced much smaller excess revenues, or potentially a revenue gap, rather than the substantial excess revenues realized during the fiscal 2015 to 2016 biennium. As Exhibit 1 shows, the board’s revenues were approximately \$73,600 less than its operating costs for the two-year period ending in fiscal 2018, largely due to the 2016 fee reduction. Similar gaps between the board’s revenues and expenditures are projected to continue into the future.

Exhibit 1
Fiscal History of the State Board of Well Drillers
Fiscal 2013-2018

	<u>2013</u>	<u>2014</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>
General Fund						
Appropriation	\$97,003	\$101,923	\$105,168	\$107,011	\$78,785	\$112,240
Revenues	206,850	27,350	192,259	39,750	108,190	21,250
Expenditures	106,255	105,992	114,397	35,740	102,737	100,267
Excess/(Gap)	100,595	-78,642	77,862	4,010	5,453	-79,017
Biennial						
Excess/(Gap)		21,953		81,872		-73,564

Note: Board expenditures typically exceed the legislative appropriation due to underfunding; in such cases, the shortfall is covered at closeout with available funding from the Water Management Administration.

Source: Maryland Department of the Environment

Exhibit 2
Fee Structure Changes by Regulation

<u>License Class and Category</u>	<u>Initial Fee</u>		<u>Renewal Fee</u>		<u>Temporary Fee</u>	
	<u>2010</u>	<u>2016</u>	<u>2010</u>	<u>2016</u>	<u>2010</u>	<u>2016</u>
Master (General, Geotechnical, or Water Supply)	\$300	\$150	\$400	\$200	\$1,200	\$1,200
Journeyman (General, Geotechnical, or Water Supply)	200	100	400	200	1,200	1,200
Well Rig Operator	200	100	300	150	900	900
Water Conditioner Installer	300	150	400	200	1,200	1,200
Water Pump Installer	300	150	400	200	1,200	1,200
Apprentice (Well Driller, Water Conditioner Installer, or Water Pump Installer)	100	50	200	100	600	600

Source: Department of Legislative Services 2018 *Preliminary Evaluation of the State Board of Well Drillers*

State Revenues: General fund revenues are maintained beyond fiscal 2021 due to the extension of the board, and general fund revenues increase beginning in fiscal 2020 from the required fee increases. Because licenses are renewed biennially in odd-numbered years and make up the vast majority of board revenues, any revenue increase in fiscal 2020 is minimal; the revenue increase will be more significant in fiscal 2021. This pattern will repeat in the out-years. As shown in Exhibit 1, the biennial gap between revenues and expenditures in fiscal 2018 was \$73,564, so any increase in fees needs to generate at least enough additional revenue to cover this gap.

State Expenditures: General fund expenditures for the board are maintained beyond fiscal 2021 due to the extension of the board's termination date. The Governor's proposed fiscal 2020 budget includes \$114,762 in general funds for the board. MDE can promulgate regulations to increase fees with existing budgeted staff and resources.

Small Business Effect: Expenditures increase for any well drillers that are small businesses and are responsible for their employees' license fees. MDE advises that many board licensees are small business owners, and almost all businesses employing board licensees are small businesses. Although the magnitude of any impact on small businesses depends on the fee levels ultimately set by MDE, the overall impact is expected to be minimal.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Department of the Environment; Department of Legislative Services

Fiscal Note History: First Reader - February 13, 2019
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