

Department of Legislative Services
 Maryland General Assembly
 2020 Session

FISCAL AND POLICY NOTE
Third Reader

House Bill 661

(Chair, Health and Government Operations
 Committee)(By Request - Secretary of State)

Health and Government Operations

Rules

State Government - Notaries Public - Notary Public Fund and Remote Notarial Acts

This departmental bill establishes the Notary Public Fund, a special fund administered by the Secretary of State (SOS) for the purpose of providing funding to support the implementation, regulation, administration, and enforcement of the laws governing notaries public. The fund consists of revenue from specified existing fees, money appropriated in the State budget to the fund, and any other money from any other source accepted for the benefit of the fund. The fund may be used only to cover the expenses of SOS in carrying out its responsibilities with respect to notaries public. **The bill takes effect July 1, 2020.**

Fiscal Summary

State Effect: General fund revenues and expenditures decrease by \$200,000 annually beginning in FY 2021; special fund revenues and expenditures increase correspondingly.

(in dollars)	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025
GF Revenue	(\$200,000)	(\$200,000)	(\$200,000)	(\$200,000)	(\$200,000)
SF Revenue	\$200,000	\$200,000	\$200,000	\$200,000	\$200,000
GF Expenditure	(\$200,000)	(\$200,000)	(\$200,000)	(\$200,000)	(\$200,000)
SF Expenditure	\$200,000	\$200,000	\$200,000	\$200,000	\$200,000
Net Effect	\$0	\$0	\$0	\$0	\$0

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

Local Effect: None.

Small Business Effect: SOS 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 State Treasurer must hold the fund separately, and the Comptroller must account for the fund. The State Treasurer must invest the money of the fund in the same manner as other State money may be invested. Interest earnings are credited to the fund. Expenditures from the fund may be made only in accordance with the State budget.

Fees assessed by SOS for the processing of applications, issuance and renewal of notarial commissions, returned checks, and preparation and furnishing of specified lists of information to requestors must be distributed to the fund.

Current Law/Background: SOS may fix reasonable fees as required for the processing of applications and the issuance and renewal of notarial commissions and may charge a reasonable fee of up to \$25 for checks returned for insufficient funds. Under regulations adopted by SOS, each application for an original or renewal appointment as a notary public must be accompanied by a processing fee of \$9 payable to SOS.

In addition, SOS may charge a reasonable fee for the cost of preparing a list of public information in its records to provide to a person who requests it, as specified. SOS may charge a reduced fee if a list is requested for governmental or nonprofit purposes.

Chapter 407 of 2019, which takes effect October 1, 2020, alters the requirements to become a notary public, authorizes a notary to perform electronic notarization and remote notarization under specified conditions, specifies restrictions on allowable acts by a notary public, and generally updates provisions related to performing and maintaining records of notarial acts. The Act authorizes SOS to adopt implementing regulations. The Governor's proposed fiscal 2021 budget includes \$198,000 for the addition of 3.5 new contractual positions and \$364,000 for contractual information technology (IT) services associated with the implementation of Chapter 407.

SOS advises that the fund contemplated under the bill will provide a funding stream for IT upgrades needed to comply with the requirements of Chapter 407. According to SOS, there are approximately 80,000 notaries public commissioned in the State.

State Fiscal Effect: SOS advises that it reduced its processing fee from \$20 to \$9 in fiscal 2016, and has annually collected approximately \$200,000 in fees related to notarial commissions since then. Under the bill, such fees are distributed to the new special fund rather than the general fund. Accordingly, based on recent annual fee revenue totals in recent years, general fund revenues decrease by an estimated \$200,000 annually, and special fund revenues for the Notary Public Fund increase correspondingly. To the extent that fee revenues are greater or less in a particular fiscal year, the decrease in general fund revenues – and increase in special fund revenues – is greater or less.

As a result of the bill's changes, general fund expenditures for SOS decrease by an estimated \$200,000 annually beginning in fiscal 2021, and special fund expenditures increase correspondingly.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Secretary of State; Department of Budget and Management;
Department of Legislative Services

Fiscal Note History: First Reader - February 21, 2020
lm/mcr Third Reader - April 13, 2020

Analysis by: Elizabeth J. Allison

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

ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: State Government – Notarial Acts and Notaries Public

BILL NUMBER: HB 661

PREPARED BY: Secretary John Wobensmith

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

Small businesses will be positively impacted because the Secretary of State will be able to better manage the requirements of Chapter 407 of 2019 (SB678) and allow for the protection of the public and the notaries themselves.

Small businesses that are in the real estate and mortgage business could be temporarily affected by being unable to use the new remote notarization technology for an additional year. However, the amount of small businesses that will use remote notarization technology is unknown. Furthermore, people that give business to those in the real estate and mortgage businesses will still be using these small business to conduct their transaction. Business will still occur as it currently does; this bill does not prevent that.