Department of Legislative Services

Maryland General Assembly
2021 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 94 (Senator Ellis)
Budget and Taxation and Finance

Public Health – Local Health District Boards

This bill establishes a local health district board (LHDB) as an independent unit in each local health planning agency to identify health disparities experienced by county residents and award supplemental funding to decrease health disparities in the county. The bill establishes a Local Health District Boards Fund, which comprises revenues from a 1% sales and use tax (SUT) surcharge on both alcoholic beverages and fast food. **The bill takes effect July 1, 2021, and terminates June 30, 2026.**

Fiscal Summary

State Effect: General fund expenditures increase by $329,200 in FY 2022 to administer collection of the SUT surcharges, including hiring staff. Future years reflect annualization and elimination of one-time costs. General fund revenues decline by an estimated $5.9 million in FY 2022, escalating to $6.7 million in FY 2026. Special fund revenues and expenditures, which pass through to LHDBs, are not reflected below.

(in dollars)	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
GF Revenue	($5,900,000)	($6,100,000)	($6,300,000)	($6,500,000)	($6,700,000)
GF Expenditure	$329,200	$180,800	$186,000	$192,800	$199,700
Net Effect	($6,229,200)	($6,280,800)	($6,486,000)	($6,692,800)	($6,899,700)

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

Local Effect: Revenues to the newly formed LHDBs increase significantly, as early as FY 2022 and through FY 2026 from the SUT surcharges. Expenditures increase correspondingly to provide services or grants to address health disparities, and to provide staff. Revenues are generally assumed sufficient to cover expenditures for LHDBs, but not likely until FY 2023, as discussed below. **This bill imposes a mandate on a unit of local government.**

Small Business Effect: Meaningful.

Analysis

Bill Summary:

Local Health District Boards

Each LHDB consists of five members, appointed by the governing body of the county. A member of an LHDB is not entitled to compensation but may be reimbursed for expenses as provided in the county's local health planning agency budget. Each local health planning agency must provide staff for its LHDB.

Each LHDB must (1) evaluate and identify areas of health disparity experienced by county residents; (2) identify ways to address areas of health disparity in the county; (3) solicit proposals, including from the local health planning agency, to provide services in the county to address identified health disparities; (4) evaluate such proposals and determine how effectively they will address health disparities in the county; and (5) award funding to proposals that the LHDB determines will effectively address health disparities in the county.

If an LHDB awards funding to the local health planning agency, the funding may be used only to supplement, and not supplant, funding for existing services provided by the agency.

Local Health District Boards Fund

The Secretary of Health must administer the special, nonlapsing Local Health District Boards Fund, which consists of money collected from SUT surcharges on alcoholic beverages and fast food, and interest earnings. The fund may be used only to provide funding to an LHDB. An LHDB may not receive funding in excess of the revenue generated by the two SUT surcharges attributable to the county in which the board operates, including any interest earnings on the revenue.

The Maryland Department of Health (MDH) must adopt regulations for the distribution of funds to an LHDB and reporting by an LHDB or a local health planning agency on the services funded by the LHDB.

Beginning in fiscal 2023, the Governor must include in the annual budget bill an appropriation from the fund for LHDBs.

Funds distributed to an LHDB may be used (1) to provide supplemental funding for services provided by the local health planning agency to address health disparities; (2) to provide grants to nonprofit entities to provide services to address health disparities; and (3) for the administrative costs of operating the LHDB.

Money expended from the fund for LHDBs is supplemental to and is not intended to take the place of funding that otherwise would be appropriated for local health services.

Alcoholic Beverage and Fast Food Surcharges

The bill establishes a surcharge on the sale of an alcoholic beverage in the State at a rate of 1% of the charge for the alcoholic beverage. The bill also establishes a "fast food" surcharge on the sale of any food or beverage by a business that offers the sale of food or beverage at a drive-up window at a rate of 1% of the taxable price of the food and beverage.

Current Law: A local health planning agency is the local health department (LHD) of a jurisdiction or a body designated by the LHD to perform health planning functions. A local health planning agency must develop a local health plan by assessing local health needs and resources and provide input into the development of statewide criteria and standards for certificate of need and health planning.

The Office of Minority Health and Health Disparities (OMHHD) in MDH, among other duties, is charged with obtaining funding and, contingent upon funding, providing grants to community-based organizations and historically black colleges and universities to conduct special research, demonstration, and evaluation projects for targeted at-risk racial and ethnic minority populations and to support ongoing community-based programs that are designed to reduce or eliminate racial and ethnic health disparities in the State.

For additional information about OMHHD and health disparities in Maryland, please see the **Appendix – Health Disparities**.

Chapters 571 and 572 of 2011 increased the SUT rate on the sale of an alcoholic beverage from 6% to 9%.

In general, food sales are subject to Maryland's 6% SUT rate unless a person operating a substantial grocery or market business sells the food for consumption off the premises and the food is not a taxable prepared food. A grocery or market business is considered to be "substantial" if the sales of grocery or market food items total at least 10% of all food sales.

State Expenditures: General fund expenditures for the Office of the Comptroller increase by $329,189 in fiscal 2022, which accounts for the bill's July 1, 2021 effective date. This estimate reflects the cost to hire three full-time positions to implement and administer collection of the two SUT surcharges: one revenue field auditor to assist with compliance at point-of-sale, one revenue examiner to handle additional audits, and one accountant to assist with processing more complex SUT returns and fund distributions of the special SUT rates. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses, as well as the following one-time-only expenses: (1) $81,300 to notify all SUT

account holders of the new surcharges; (2) $50,000 for additional programming to both the current legacy tax system and the new Compass system (scheduled to go online in 2022); and (3) $41,000 to modify the SUT form. This analysis assumes that general funds must be used for these expenses as revenues from the SUT surcharges can only be used to provide funding to LHDBs.

Positions	3.0
Salaries and Fringe Benefits	$140,145
One-time Notification of Sales and Use Tax Accounts	81,300
One-time Reprogramming of Tax Systems	50,000
One-time Modification of Sales and Use Tax Form	41,000
Operating Expenses	16,744
Total FY 2022 State Expenditures	**$329,189**

Future year expenditures reflect full salaries with annual increases and employee turnover and ongoing operating expenses, as well as elimination of one-time-only expenses. While the bill terminates at the end of fiscal 2026, it is assumed that these three positions are redirected to other needs within the Office of the Comptroller.

State and Local Revenues: Special fund revenues to the Local Health District Boards Fund are estimated at $103.5 million in fiscal 2022, increasing to $118.2 million in fiscal 2026, as shown in **Exhibit 1**. Revenues accrue to the fund from the 1% SUT surcharges on alcoholic beverages and fast food. Revenues must be used only to provide funding to LHDBs. As the bill requires the Governor, *beginning with fiscal 2023*, to include in the annual budget bill an appropriation from the fund to the LHDBs, it is unclear whether revenues from the fund would be distributed to LHDBs until fiscal 2023. Revenues in fiscal 2022 assume the Office of the Comptroller is able to collect the surcharges concurrent with the start of fiscal 2022, even though it must first take certain actions to prepare to assess and collect the tax.

Projected revenues from the 1% SUT surcharge on alcoholic beverages are based on the Board of Revenue Estimates' December forecast for future alcohol consumption and reflect a decrease in demand for alcoholic beverages of 0.7% as a result of the surcharge.

Projected revenues for the 1% SUT surcharge on fast food are based on the following information and assumptions: (1) the average Marylander (consistent with the national average) consumes $1,200 of fast food annually; (2) fast food price inflation is 3.1% annually; (3) consumption of fast food per capita otherwise remains stable in future years; and (4) the 1% surcharge results in a decrease in demand for fast food of 0.8%. The Office of the Comptroller notes that, to the extent Marylanders' fast food consumption habits diverge from the national average, revenues could vary significantly.

Exhibit 1
Estimated Revenue Impact of Sales and Use Tax Surcharges
($ in Millions)

	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
Local Revenues					
Alcoholic Beverages	$31.5	$32.7	$33.8	$34.9	$36.0
Fast Food	72.0	74.4	76.9	79.5	82.2
Subtotal	***$103.5***	***$107.1***	***$110.7***	***$114.4***	***$118.2***
State General Fund Revenues					
Alcoholic Beverages	($2.1)	($2.2)	($2.3)	($2.3)	($2.4)
Fast Food	(3.8)	(3.9)	(4.0)	(4.2)	(4.3)
Subtotal	***($5.9)***	***($6.1)***	***($6.3)***	***($6.5)***	***($6.7)***
Total Impact on Revenues	**$97.6**	**$101.0**	**$104.4**	**$107.9**	**$111.5**

Source: Office of the Comptroller; Department of Legislative Services

Due to anticipated lower consumption because of the surcharges as discussed above, general fund revenues for the State are also affected as shown in Exhibit 1. Specifically, general fund revenues may decrease by as much as $5.9 million in fiscal 2022, escalating to $6.7 million in fiscal 2026.

The Office of the Comptroller also advises that SUT is currently collected on a *statewide* basis and reported to the county based on the address of the tax return. However, the address of the tax return is not necessarily the address of a business. Businesses with multiple locations across counties file a single tax return with one address listed. Thus, there is no true breakdown of SUT revenue below the State level.

LHDB revenues increase based on the county's share of tax revenues from the SUT surcharges. Local revenues may also increase from the receipt of funding from the LHDB to provide services to address health disparities in the county.

Local Expenditures: Under the bill, each local health planning agency must provide staff for its LHDB; however, special funds distributed to LHDBs from the Local Health District Boards Fund may be used for the administrative costs of operating the LHDB. The Maryland Association of County Health Officers advises that each county would need at least one person to staff its LHDB and perform duties, including evaluating and identifying

ways to address areas of health disparity in the county; soliciting, evaluating, and funding proposals; providing oversight of funding awards; and providing expense reimbursement to LHDB members. Thus, special fund expenditures for local jurisdictions increase beginning in fiscal 2022. This analysis assumes that any funds received by LHDBs from the Local Health District Boards Fund are generally sufficient to cover expenditures. However, local jurisdictions may be required to initially use their own funds in fiscal 2022 as distribution of revenues through the State budget is not required until fiscal 2023.

Small Business Effect: The SUT surcharges on alcoholic beverages and fast food (food or beverage sold by a business with a drive-up window) may result in a decline in sales for retailers and wholesalers. Those businesses located near the State's borders may be more adversely affected as customers in those areas could cross the border into other jurisdictions to purchase alcoholic beverages or fast food. Retailers also incur increased programming and administrative costs associated with collecting and remitting revenues from the new SUT rate due to the surcharges.

Additional Comments: The bill terminates at the end of fiscal 2026 – along with the SUT surcharges, LHDBs, and the new special fund; it is unclear what happens to monies collected due to the surcharges during fiscal 2026 but not yet expended.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Maryland Association of County Health Officers; Harford and Montgomery counties; Maryland Association of Counties; Comptroller's Office; Department of Budget and Management; Department of Legislative Services

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Appendix – Health Disparities

Racial and ethnic minorities are more likely to experience poor health outcomes as a consequence of their social determinants of health, including access to health care, education, employment, economic stability, housing, public safety, and neighborhood and environmental factors. A broad body of research has quantified the existence of health disparities between Black, Hispanic, and Native American individuals and their White counterparts, including a greater risk of heart disease, stroke, infant mortality, maternal mortality, lower birth weight, obesity, hypertension, type 2 diabetes, cancers, respiratory diseases, and autoimmune diseases.

Health Disparities in Maryland

Data consistently shows ongoing and in some cases growing health disparities in Maryland, including the impact of COVID-19, maternal and infant mortality, incidence of HIV, and emergency room (ER) visits for substance use, asthma, diabetes, and hypertension. For example:

- While Black individuals comprise 29.8% of the Maryland population, they represent 36% of COVID-19 deaths as of January 18, 2021.
- Maryland's maternal mortality rate for Black women is 3.7 times that of White women, and the racial disparity has widened in recent years.
- Maryland's infant mortality rate for all races/ethnicities has remained level but remains highest (10.2 per 1,000 in 2018) among the Black non-Hispanic population, nearly 2.5 times higher than the rate for the White non-Hispanic population.
- The incidence of HIV for all races/ethnicities has generally declined in Maryland; although the incidence among the Black non-Hispanic population (49.0 per 100,000) remains 2.4 times that of the total population.
- In 2017, ER visits for the Black non-Hispanic population compared with all races/ethnicities were 50% higher for substance use disorder; nearly 200% higher for asthma-related ER visits; 86% higher for diabetes-related ER visits; and 89% higher for hypertension-related ER visits.

Maryland Office of Minority Health and Health Disparities

A central effort to address health disparities in Maryland was the establishment of the Office of Minority Health and Health Disparities (OMHHD) in the Maryland Department

of Health (MDH) in 2004. The purpose of the office is to address social determinants of health and eliminate health disparities by leveraging resources, providing health equity consultation, impacting external communications, guiding policy decisions, and influencing strategic direction on behalf of the Secretary of Health. The office provides grants and technical assistance to community-based organizations, collects data on race and ethnicity, and targets programs and initiatives to three health conditions that disproportionately impact minorities in Maryland: infant mortality, asthma, and diabetes/prediabetes. The office's Minority Outreach and Technical Assistance Program provides grant funding for activities such as coordination and navigation of health care services, access to community-based health education, linkage to health insurance enrollment and social services, and self-management support through home visiting. In 2006 and 2010, the office prepared a *Maryland Plan to Eliminate Minority Health Disparities*.

Other Major Efforts to Address Health Disparities Since 2004

In January 2010, the Maryland Health Care Commission (MHCC) and OMHHD produced a *Health Care Disparities Policy Report Card*. The report card examined racial and ethnic distribution of Maryland physicians compared to the Maryland population and found that Black/African American, Hispanic/Latino, and American Indians/Native Americans were underrepresented in the physician workforce and in graduating classes from Maryland medical schools.

Other legislative efforts to address health disparities have focused on workforce development for health care providers, including convening a Workgroup on Cultural Competency and Workforce Development for Mental Health Professionals; establishing a Cultural and Linguistic Health Care Provider Competency Program; facilitating the workforce development, training, and certification of community health workers; requiring health occupations boards to report on efforts to educate regulated individuals regarding reducing and eliminating racial and ethnic disparities, improving health literacy, improving cultural and linguistic competency, and achieving racial and ethnic health equity; and requiring evidence-based implicit bias training for perinatal health care professionals.

In recent years, legislative initiatives regarding health disparities have focused on maternal and child health, including requiring a study on the mortality rates of African American infants and infants in rural areas, requiring MDH to establish a Maternal Mortality Stakeholder Group to examine issues resulting in disparities in maternal deaths, and requiring the Maternal Mortality Review Program to make recommendations to reduce disparities in the maternal mortality rate (including recommendations related to social determinants of health) and to include information on racial disparities in its annual report.

Senate President's Advisory Workgroup on Equity and Inclusion

In August 2020, the President of the Senate appointed a Senate workgroup to address environmental justice, health care disparities, and wealth and economic opportunity for minority Marylanders. The workgroup issued a report in January 2021, which includes recommendations relating to health disparities, including:

- requiring the director of OMHHD to meet with MHCC and MDH at least once annually to examine the collection of health data that includes race and ethnicity information and identify any changes for improving such data;
- requiring OMHHD to prepare an updated plan to eliminate minority health disparities and requiring MHCC to prepare a revised health care disparities policy report card;
- extending Medicaid coverage for pregnant women until 12 months postpartum and providing care coordination and health literacy education for individuals as they transition from Medicaid coverage;
- establishing a standing Maternal and Child Health Committee in MDH to develop a Blueprint for Maternal and Child Health;
- ensuring that all pregnant women receive comprehensive prenatal care by increasing awareness of and access to resources for all women, including establishing an emergency program that covers prenatal care for undocumented immigrants;
- assessing certified nurse midwife privileges in Maryland hospitals and developing recommendations with major stakeholders;
- establishing a Medicaid Doula Pilot Program in two counties;
- taking actions to increase the number of minority health care providers;
- requiring the Cultural and Linguistic Health Care Professional Competency Program to identify and approve implicit bias training programs for all individuals licensed and certified under the Health Occupations Article; and
- reestablishing the five health enterprise zones permanently.