

EG.00
Registers of Wills

Operating Budget Data

(\$ in Thousands)

	<u>FY 01</u> <u>Actual</u>	<u>FY 02</u> <u>Working</u>	<u>FY 03</u> <u>Allowance</u>	<u>Change</u>	<u>% Change</u> <u>Prior Year</u>
General Fund	\$19	\$75	\$75	\$0	0.0%
Total Funds	\$19	\$75	\$75	\$0	0.0%

Analysis in Brief

Issues

Proposed Legislation Could Increase the Maximum Salary for a Register of Wills to \$85,000: SB 13 proposes to increase the maximum annual salary for registers from \$75,000 to \$85,000. Historically, the maximum salary has been revised every four years, corresponding to the election cycle. **Similar legislation proposed during the 2001 session failed. The Department of Legislative Services recommends that a representative of the Registers of Wills (ROW) Association brief the budget committees on the legislation's anticipated effect on general fund revenues.**

Recommended Actions

1. Concur with Governor's allowance.

Updates

Fiscal Impact of Recent Legislation: During the 2000 session, the General Assembly eliminated the inheritance tax for lineal beneficiaries and siblings through Chapter 497, Acts of 2000. The ROW were supported in part by general funds raised by this direct inheritance tax. Fiscal 2002 will be the first fiscal year to reflect the legislation's full effect. In addition, federal estate law changes, while not directly affecting Maryland inheritance tax, may serve to increase the fiscal effect of the repeal of the lineal inheritance tax from that originally estimated. However, as per its provisions, the new federal estate laws could revert back to pre-2001 laws by the beginning of 2011.

Note: Numbers may not sum to total due to rounding.

For further information contact: Elizabeth Forkin

Phone: (410) 946-5530

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Operating Budget Analysis

Program Description

Registers of Wills (ROW) in each jurisdiction are responsible for the administration of estates by providing proper forms and direction, assisting, and advising any person who requests assistance in the preparation of any form for administrative probate, admitting wills to probate and issuing Letters of Administration, auditing accounts, and maintaining accurate records of all estate matters. Registers are not allowed to provide legal advice.

Registers take in revenues from inheritance taxes and processing fees. These revenues are used to pay the operating costs of the offices. Excess revenues are reverted to the general fund. Fiscal 2001 balance information for the ROW's offices appears in **Appendix 3**. In the event that expenditures exceed revenues, the Comptroller can provide a deficiency supplement that is appropriated by the General Assembly or authorize the retention of additional inheritance taxes.

The Comptroller verifies the bond of the registers, sets salaries, approves procurements, audits receipts, and administers the State supplement. This budget reflects the Comptroller's estimate of funding needed to cover the anticipated deficiencies for fiscal 2003. Funds not used for this purpose are reverted to the general fund.

Governor's Proposed Budget

The Governor's fiscal 2003 allowance is \$75,000 in general funds, the same amount appropriated in fiscal 2001 and 2002. Some individual ROWs experience temporary deficiencies at the beginning of each fiscal year, before inheritance tax revenue is generated. The annual \$75,000 appropriation acts to bridge this gap in the first weeks of the fiscal year.

The general fund appropriation for anticipated deficiencies ensures that the ROW reports to the General Assembly each year. As shown in **Exhibit 1**, there was a reversion for fiscal 2001. For fiscal 1998 through 2000 no reversion occurred. The actual deficiency for fiscal 2001 was \$18,539. However, as shown in Appendix 3, five separate counties could not meet their operating expenses from the inheritance tax revenues retained by their offices. Although the deficient amount from the five counties totals in excess of \$18,539, Section 2-205 of the Estates and Trusts Article provides that if the fees and receipts of the ROW shall be insufficient in any year to pay all or any part of the authorized salaries and expenses of any ROW, the deficiency shall be funded from the taxes remitted to the Comptroller of the Treasury by the register during that fiscal year. In the event that tax collections for the fiscal year are insufficient, the Comptroller shall make up the deficit from excess fees remitted from all other registers. Thus, part of the deficiency was funded from the taxes remitted to the Comptroller of the Treasury during the fiscal year.

Exhibit 1

**Appropriated Deficiency Expended
Fiscal 1998 through 2001**

<u>Fiscal Year</u>	<u>Appropriation</u>	<u>Actual</u>
2001	\$75,000	\$18,539
2000	\$75,000	\$75,000
1999	\$75,000	\$75,000
1998	\$75,000	\$75,000

Source: Department of Legislative Services

Cost Containment

Although the Governor's hiring freeze and 1.5% reduction in certain operating expenses do not affect the ROW, the Comptroller reports that certain containment measures can be seen in the ROW monthly reports. Specifically, office expenses do not seem to have risen, there have been no recent salary increases, and there have been no new positions since October 2001. Since the amount of the reversion of inheritance taxes to the general fund can be decreased by the amount of operating expenditures, it is important that costs be contained to maximize the reversion.

DLS recommends that a representative for the ROW brief the budget committees on specific actions taken by the ROW to contain costs.

Issues

1. Proposed Legislation Could Increase the Maximum Salary for a Register of Wills to \$85,000

SB 13 proposes to eliminate the requirement of a minimum annual salary for registers of \$6,000 and to increase the maximum annual salary from \$75,000 to \$85,000. Similar legislation proposed during the 2001 session failed. The Board of Public Works (BPW) fixes salaries for registers based upon county population, dollar volume of collected revenues, and workload. These guidelines will not be changed by the proposed legislation. Consistent with Section 2-205 of the Estates and Trust Article, the BPW institutes a four-level salary plan based upon these factors. As shown in **Exhibit 2**, the current annual salary levels are set at \$65,600; \$69,100; \$71,500; and \$75,000.

Exhibit 2

Current Salaries for Register of Wills

<u>Subdivision</u>	<u>Actual Salary FY 1999-2002</u>	<u>Subdivision</u>	<u>Actual Salary FY 1999-2002</u>
Caroline	\$65,600	Carroll	\$71,500
Garrett	65,600	Charles	71,500
Kent	65,600	Frederick	71,500
Somerset	65,600	Harford	71,500
Allegany	69,100	Howard	71,500
Calvert	69,100	Washington	71,500
Cecil	69,100	Anne Arundel	75,000
Dorchester	69,100	Baltimore City	75,000
Queen Anne's	69,100	Baltimore County	75,000
St. Mary's	69,100	Montgomery	75,000
Talbot	69,100	Prince George's	75,000
Wicomico	69,100		
Worcester	69,100		

Source: Comptroller of the Treasury

Historically, ROW salaries are raised every four years, corresponding to their election cycle. The proposed legislation does not apply to incumbents. Consequently, the salary increase will have no practical effect until after the 2003 elections. ROW salaries were most recently raised in fiscal 1999 consistent with

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Chapter 458, Acts of 1998, which increased the maximum annual salary from \$65,000 to \$75,000. The fiscal impact of this increase was a decrease in annual general fund revenues of approximately \$284,000.

DLS recommends that a representative of the ROW Association brief the budget committees on the legislation's anticipated effect on general fund revenues.

Recommended Actions

1. Concur with Governor's allowance.

Updates

1. Fiscal Impact of Recent Legislation

State Legislation

During the 2000 session, the legislature repealed the inheritance tax for lineal beneficiaries and siblings through Chapter 497, Acts of 2000. ROW were supported in part by general funds raised by this direct inheritance tax. Fiscal 2002 will be the first fiscal year to reflect the legislation's full effect. Currently, the ROW is supported by Maryland's collateral inheritance tax. Legislation to repeal the collateral inheritance tax and to bring the ROW into the State budget failed last year. It should be noted that the amount of funds available for the operation of the ROW will not only be affected by the repeal of the direct inheritance tax, but also by the number of wills being probated and the size of the estates being probated in any given year.

Federal Legislation

Federal estate law changes, while not directly affecting Maryland inheritance tax, may serve to increase the fiscal effect of the 2000 repeal of the direct inheritance tax from that originally estimated. When the fiscal estimates for the repeal of the lineal inheritance tax were prepared, it was assumed in the calculation that a significant part of the lost inheritance tax funds from the repeal would be recouped in increased estate tax revenue. The new federal estate law set a schedule for the phase-out and eventual repeal, on December 31, 2009, of the federal estate tax. The Maryland estate tax is directly linked to the federal estate tax. Once the federal estate tax is repealed, the only Maryland death tax remaining will be the collateral inheritance tax. Thus, the funds initially estimated to be recouped in estate taxes when the Maryland direct inheritance tax was repealed will be reduced as the federal estate tax is phased-out and eventually will be lost once the estate tax is repealed. However, barring any action by Congress, the new federal estate laws will revert back to pre-2001 laws by the beginning of 2011 as per the provisions.

Current and Prior Year Budgets

Current and Prior Year Budgets Registers of Wills (\$ in Thousands)

	<u>General Fund</u>	<u>Special Fund</u>	<u>Federal Fund</u>	<u>Reimb. Fund</u>	<u>Total</u>
Fiscal 2001					
Legislative Appropriation	\$75	\$0	\$0	\$0	\$75
Deficiency Appropriation	0	0	0	0	0
Budget Amendments	0	0	0	0	0
Reversions and Cancellations	(56)	0	0	0	(56)
Actual Expenditures	\$19	\$0	\$0	\$0	\$19
Fiscal 2002					
Legislative Appropriation	\$75	\$0	\$0	\$0	\$75
Budget Amendments	0	0	0	0	0
Working Appropriation	\$75	\$0	\$0	\$0	\$75

Note: Numbers may not sum to total due to rounding.

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Appendix 2

Object/Fund		Object/Fund Difference Report Registers of Wills			
		FY01 Actual	FY02 Working Appropriation	FY03 Allowance	FY02 - FY03 Amount Change
Objects				Percent Change	
12	Grants, Subsidies, Contracts	\$ 18,539	\$ 75,000	\$ 75,000	0%
Total Objects		\$ 18,539	\$ 75,000	\$ 75,000	0%
Funds					
01	General Fund	\$ 18,539	\$ 75,000	\$ 75,000	0%
Total Funds		\$ 18,539	\$ 75,000	\$ 75,000	0%

**Registers of Wills
Fiscal 2001 Balance**

	FY 2001 Total Receipts	FY 2001 Tax Remitted to General Fund	FY 2001 Taxes, Fees, and Commissions Retained	FY 2001 Expenditures	Excess (Deficiency)
Allegany	\$1,512,970	\$1,064,641	\$448,329	\$329,429	\$118,900
Anne Arundel	7,561,802	5,269,143	2,292,659	1,057,353	1,235,306
Baltimore	19,955,711	13,951,709	6,004,002	1,947,551	4,056,451
Calvert	969,580	659,782	309,797	308,846	951
Caroline	569,728	392,606	177,122	249,562	(72,440)
Carroll	3,150,788	2,209,604	941,185	276,395	664,790
Cecil	1,153,291	796,569	356,722	293,973	62,749
Charles	1,090,360	762,476	327,885	327,797	88
Dorchester	694,594	481,069	213,525	212,047	1,478
Frederick	3,159,960	2,209,843	950,117	403,511	546,606
Garrett	413,351	285,340	128,011	216,864	(88,853)
Harford	2,381,293	1,648,505	732,789	306,526	426,263
Howard	2,610,664	1,804,526	806,138	392,720	413,418
Kent	871,048	613,167	257,881	223,384	34,497
Montgomery	23,220,257	16,381,279	6,838,978	2,065,546	4,773,432
Prince George's	7,336,251	5,054,857	2,281,394	1,471,933	809,461
Queen Anne's	660,308	454,273	206,035	214,364	(8,329)
St. Mary's	1,070,426	740,699	329,728	284,977	44,751
Somerset	670,067	481,657	188,410	190,692	(2,282)
Talbot	1,877,883	1,324,759	553,124	355,313	197,811
Washington	2,150,813	1,485,336	665,477	320,302	345,175
Wicomico	881,122	595,701	285,421	289,810	(4,389)
Worcester	880,250	607,183	273,067	241,428	31,639
Baltimore City	9,145,107	6,400,760	2,744,348	1,836,873	907,475
Total	\$93,987,624	\$65,675,484	\$28,312,144	\$13,817,196	\$14,494,948

Source: Comptroller's Office