

Department of Legislative Services
 Maryland General Assembly
 2004 Session

FISCAL AND POLICY NOTE
Revised

House Bill 1093 (Delegate Krysiak)
 Economic Matters

State Board of Examining Engineers - Licensing and Regulation

This bill extends the Board of Examining Engineers to October 1, 2005 and then repeals the authority governing the board under the Public Local Laws of Baltimore City on October 1, 2005. The bill creates, effective October 1, 2005, a statewide Board of Examining Engineers.

The bill takes effect July 1, 2004.

Fiscal Summary

State Effect: No effect in FY 2005. Funding to license examining engineers would continue in FY 2006 and beyond. The unusual revenue and expenditure pattern is explained by the temporary funding status of the new board, the requirement of the board to cover indirect costs not currently covered for the duration of the special funding status, the need to hire one new staff person in FY 2006, and associated start-up costs.

(in dollars)	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
GF Revenue	\$0	(\$44,100)	(\$19,200)	(\$37,200)	\$184,200
SF Revenue	0	201,400	216,400	209,000	61,400
GF Expenditure	0	0	0	0	110,200
SF Expenditure	0	245,600	235,500	246,200	(11,100)
Net Effect	\$0	(\$88,300)	(\$38,300)	(\$74,400)	\$146,500

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

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Bill Summary: The bill: (1) provides for board membership and sets the terms of the new members; (2) establishes responsibilities of and procedures for the new board; (3) requires examining engineers to be licensed under one of five classes of licensure; (4) establishes requirements for licensure as an examining engineer, including examination of applicants; (5) authorizes the board to contract with a testing service for such examinations; (6) requires the board to issue licenses to qualified applicants; (7) establishes biennial license renewal requirements and requirements for reinstatement of licenses that have expired or been revoked; (8) establishes fees for specified activities and authorizes the board to set other fees; (9) provides for resolution of all complaints and authorizes the board to employ investigative staff to handle complaints; (10) requires the board to adopt a code of ethics as the standard of conduct for licensees; (11) authorizes the board to deny a license to any applicant, reprimand any licensee, or suspend or revoke a license in specified circumstances; (12) authorizes the imposition of civil penalties for any violation of the bill as well as in addition to or instead of taking disciplinary action against a licensee; (13) requires all penalties collected to be paid to the general fund; (14) authorizes the board to issue subpoenas and to sue in the name of the State to enforce any provision of the bill by injunction; and (15) establishes criminal penalties.

The board is special funded until October 1, 2008 through inclusion in the special fund for the five design professional boards. During that period, the board must cover all costs of maintaining the board based on the indirect cost allocation calculations done for the design boards. Thereafter, the board becomes general funded and is no longer required to cover indirect costs attributed to it; however, it retains its fee-setting authority.

The bill provides for the smooth transition from the existing board to the new board with statewide jurisdiction in several ways. In particular, individuals who are licensed by the existing board will be considered licensed by the new board for the remainder of the term of their license and may qualify for an equivalent license on renewal without meeting the bill's education, experience, and examination requirements. Also, the functions powers, duties, equipment assets, liabilities, records, and employees of the existing board will be transferred to the new board.

The bill provides for termination of the State Board of Examining Engineers on July 1, 2014 and requires the new board to be evaluated as part of the Maryland Program Evaluation Act, with the preliminary sunset review to be undertaken in 2011.

The State Board of Examining Engineers is required to report to the Senate Education, Health, and Environmental Affairs Committee and the House Economic Matters Committee on or before December 31, 2006 on the appropriateness of fees charged to licensees and the ability of the board to be self-sufficient.

Current Law: The Board of Examining Engineers has regulatory authority over licensed examining engineers in Baltimore City. The board was established by Chapter 448, Acts of 1892, and the enacting statute is found in Article 4, Subtitle 4 of the Code of Public Local Laws of Baltimore City. The board is housed in the Division of Occupational and Professional Licensing within the Department of Labor Licensing, and Regulation (DLLR). The board promotes safety and efficiency in the operation, use, and inspection of steam and power generators, heating plants, hoisting machines, boilers, and pressure valves. The board regulates examining engineers by examination, licensure, limited disciplinary action, and adoption of standards of performance.

Initial examination for licensure is \$55, and current license fees are \$20 for a First Grade examining engineer; \$15 for a Second Grade examining engineer; and \$10 for both the Third and Fourth Grade examining engineers.

All fines and penalties collected by the board are paid into the general fund.

The board is scheduled to terminate on July 1, 2005.

Background: The Board of Examining Engineers regulates approximately 6,000 licensees who perform work in the operation, regulation, maintenance, and repair of machinery that provides heat, air-conditioning, and ventilation in large buildings and complexes generally boilers and pressure vessels. The board is the only regulatory board that is enacted in public local law. The board was established to regulate examining engineers, more commonly known as stationary engineers, within Baltimore City, but the board actually provides licenses to stationary engineers throughout the State, usually for insurance purposes. All stationary engineers who work for the State are required to be licensed regardless of where they work. However, as the board only has regulatory authority over stationary engineers in Baltimore City, it handles few complaints.

This bill arises, in part, out of the sunset evaluation of the Board of Boiler Rules, with a concurrent analysis of the Board of Examining Engineers, performed by the Department of Legislative Services (DLS) in 2001. In its report, DLS recommended the repeal of the authority for the Board of Examining Engineers and, in its place, the creation of a State Board of Stationary Engineers that would also be subject to sunset review. Although not similar, HB 488 and SB 455 of 2002 were introduced to implement a statewide stationary engineer licensing program. However, DLLR expressed concern that the bills' requirements would generate significant opposition; the bills were amended so that a workgroup could be convened to consider the scope of practice for proposed categories of licensure and outline the education, experience, pre-licensing, and examination requirements.

In October 2003 DLLR presented to the Senate Education, Health, and Environmental Affairs Committee and the House Economic Matters Committee a report on the proposed structure and implementation of a statewide stationary engineering licensing program. This bill embodies the recommendations in that report.

State Revenues: The proposed fiscal 2005 budget projects \$110,000 in revenues generated from fees from the existing board, and the fiscal 2005 budget allowance for the board is \$84,000. The Board of Examining Engineers is currently a special funded board; however, any excess revenues do not carry over to the next fiscal year but are deposited in the State's general fund at the end of the year. During the three-year period in which the board will participate in the design board special fund, these "excess revenues" would no longer be credited to the general fund at year end, resulting in a loss of \$44,100 to the general fund in fiscal 2006.

The board currently generates enough revenue to cover its direct costs but does not cover the indirect costs attributed to it. These indirect costs are a paper allocation only and are not actually assessed to the board. They do, however, help determine the fees that should be charged to cover the actual cost of regulation for the three years the board is required to do so.

The new State Board of Examining Engineers would begin operation in fiscal 2006 and would be aligned with the five design professional boards for cost allocation purposes. DLLR advises that it is currently unable to calculate the direct and indirect costs for the statewide board as required by the cost allocation method for the design professional boards. Consequently, DLLR is unable to predict the level of fees necessary to operate the board at this time. However, since total costs attributed to the existing board have exceeded revenues it is likely that initial license and renewal fees would increase to an amount necessary to cover all costs associated with the board, probably doubling or tripling current fees.

In the second quarter of fiscal 2009, the board would become general funded and would only need to cover through fee revenue its direct costs again. However, it is assumed that fees would remain at the same level as in prior years for the duration of fiscal 2009 and that the board would generate sufficient revenues to cover all costs, but that the amount needed for indirect costs would be considered excess revenues for the general fund.

As DLLR advises that most stationary engineers in the State are already licensed by the existing board, there would likely be a minimal increase in the number of new licensees on October 1, 2005. Assuming a 10% increase in licensees on the effective date of the new board, currently generated revenues would increase by 20% in fiscal 2006, as about one-half of licensees renew each year. This bump in licensee revenue would carry over

to fiscal 2008, the renewal year for the new licensees. Otherwise, growth of about 1% in the number of licensees each year is assumed.

State Expenditures: There would be no effect in fiscal 2005. However, special fund expenditures would increase to cover indirect costs for three quarters of fiscal 2006, to hire one full-time staff to manage the additional requirements of the statewide board, pay for contractual services for examination development and database modifications, and cover additional operating costs. The estimate below includes the new salary and related fringe benefits, one-time start-up costs, ongoing operating expenses including modifications to licensing software and communication with licensees, and the indirect costs. Based on indirect costs attributed to the existing board in 2001, the boards indirect costs are approximately 1.5 times the direct costs.

Indirect Costs for Three Quarters	\$138,222
Salary and Fringe Benefits	26,250
Database Modifications and Exam Services	75,000
New Operating Expenses	<u>6,100</u>
Total FY 2005 State Expenditures	\$245,572

Future year expenditures reflect: (1) the new salary with 4.6% annual increases and 3% employee turnover; (2) 1% annual increases in the new ongoing operating expenses; and (3) the need to cover indirect costs for a full year. Expenditures would increase for compliance activities; however, any impact related to compliance cannot be reliably estimated at this time.

In addition, with conversion to a general fund board for three quarters of fiscal 2009, the expenditure pattern would change significantly. Rather than the current full-year special fund expenditures, the greater expenditures would be in effect for only one quarter, resulting in a net decrease in special fund expenditures. The board would have general fund expenditures for the first time in the last three quarters of fiscal 2009.

Additional Comments: The special fund for the five professional design boards in DLLR has been implemented as a pilot program and will terminate on October 1, 2008. Examining engineers are not considered a design profession.

Additional Information

Prior Introductions: A substantial portion of this bill was introduced as HB 488 in 2002 session. The bill was amended by the House Economic Matters Committee and
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was passed by the full House. The bill was then amended by the Senate Education, Health, and Environmental Affairs Committee but was not returned to the House.

Cross File: None.

Information Source(s): Department of Labor, Licensing, and Regulation; Baltimore City, Department of Legislative Services

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