

**Department of Legislative Services**  
Maryland General Assembly  
2005 Session

**FISCAL AND POLICY NOTE**

House Bill 285

(Delegate McIntosh)

Environmental Matters

Education, Health, and Environmental  
Affairs

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**Maryland Tobacco Authority - Sunset Extension and Program Evaluation**

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This bill extends the termination date for the Maryland Tobacco Authority from July 1, 2006 to July 1, 2011 and requires another sunset evaluation on or before July 1, 2010. The bill also reduces the membership of the Tobacco Authority and alters the membership criteria and the nominating process for membership. The bill raises the ceiling on the poundage tax rate from \$0.20 to \$0.25 per 100 pounds. The bill repeals the \$750 annual compensation paid to non-State employee members as well as a requirement that the Tobacco Authority conduct studies and investigations on the phases of tobacco production and marketing.

The bill requires the Maryland Tobacco Authority to report to the Senate Education, Health, and Environmental Affairs Committee and the House Environmental Matters Committee on or before October 1, 2006 on its implementation of the recommendations made by the Department of Legislative Services (DLS) contained in the sunset evaluation report.

The bill takes effect July 1, 2005.

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**Fiscal Summary**

**State Effect:** Revenues and expenditures for the Maryland Tobacco Authority would be maintained beyond FY 2006. The proposed FY 2006 budget assumes \$8,734 in special fund revenues for the authority, excluding the revenue from the poundage tax increase, and includes \$8,734 in special fund expenditures. Out-year revenues and expenditures are expected to remain relatively constant.

**Local Effect:** None.

**Small Business Effect:** Potential minimal.

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## Analysis

**Current Law:** The Tobacco Authority's termination date is July 1, 2006.

The Maryland Tobacco Authority consists of eight members appointed by the Governor for three-year terms. Five of these members must be tobacco producers appointed from nominees selected by the Maryland Farm Bureau, Inc., and at least two of them must represent the minority political party (defined as the party receiving the second highest number of votes in the preceding gubernatorial election). In addition, all five tobacco producer members must be residents of different counties. The remaining members include one person in the business of selling leaf tobacco, one person in the business of buying leaf tobacco, and one person familiar with the economics and marketing of tobacco who is selected from three nominees submitted by the Secretary of Agriculture. Typically this person has been a University of Maryland faculty member. The authority members are responsible for selecting a chairman. Each member who is not a regular employee of the State is paid \$750 annually, and all members are compensated for reasonable travel expenses in accordance with standard State travel regulations.

The authority is funded through license fees and the fee imposed on each pound of tobacco auctioned, commonly referred to as the "poundage tax." The ceiling on the poundage tax rate is \$0.20 per 100 pounds of tobacco sold. The authority may set a lower rate for the poundage tax before the beginning of the market season, if that lower rate would be sufficient to recover its expenses.

**Background:** The Maryland Tobacco Authority is responsible for licensing and regulating the producers, buyers, and sellers of leaf tobacco in the State. The authority oversees the annual tobacco auction. The authority is subject to the Maryland Program Evaluation Act, also known as the "sunset law," which provides a system of periodic legislative review of the regulatory, licensing, and other governmental activities of various units of State government. The bill arises out of the sunset evaluation of the Tobacco Authority performed by DLS during 2004. The report contained the following findings and recommendations for statutory changes.

### *Continued Need for the Tobacco Authority*

Maryland's tobacco buyout program has been extremely successful in reducing the production of tobacco in the State. Consequently, the number of tobacco warehouses has dropped to two, and it is not clear whether the State's tobacco crop will continue to support an auction. Nevertheless, DLS found that the Tobacco Authority runs the tobacco auction well for minimal costs. As long as a market exists for Maryland tobacco and there is more than one tobacco warehouse in the State, there is a need for the Maryland Tobacco Authority. DLS recommended extending the authority for five years and requiring it to report to specified committees of the General Assembly. DLS also made a series of recommendations related to alternative means of regulating the tobacco auction if another warehouse closes.

### *Authority Finances*

The dramatic reductions in Maryland's tobacco crop have had a significant impact on the authority's finances, and the authority is no longer able to generate enough revenue to cover its operating costs. General funds and Tobacco Trust monies have supplemented special fund revenue in recent years. In order for the authority to be more fiscally independent, operating costs need to be reduced and revenues need to be increased. Even with an increase in revenues and a reduction in expenses, the authority will still require supplemental funding. DLS recommended eliminating the annual compensation payment of \$750 to nongovernmental members of the Tobacco Authority and increasing the poundage tax rate to \$0.25 per 100 pounds. When and if the authority is able to recover its operating costs, DLS recommended that it use its statutory authority to lower the poundage tax.

### *Authority Membership*

The membership of the authority is not consistent with the intent of statute. Statute requires that the authority be composed of eight members who serve three-year terms and represent specific geographic locations and occupations. The last appointment to the authority was in 1999. While authority members may serve until a successor is selected and qualifies, the membership is outdated. Statute requires that five of the eight members of the authority be tobacco producers. However, all of the current producer members have taken part in the State's tobacco buyout and no longer grow tobacco. The success of the tobacco buyout will make it difficult for the authority's membership to comply with current statute. DLS recommended modifying statute as proposed in the bill. In addition, as the authority does not have the resources to conduct studies and investigations as required by statute, DLS recommended repealing that requirement.

**State Fiscal Effect:** State revenues will be maintained beyond fiscal 2006 because the bill proposes to continue the Tobacco Authority. The proposed fiscal 2006 budget

assumes \$8,734 in special fund revenues for the authority which reflects poundage tax revenues at the current rate, the authority's annual license renewal schedule, and funds from the Tobacco Trust. This figure does not include an increase in the poundage tax as proposed by the bill. Based on estimated sales of 2 million pounds of tobacco, increasing the poundage tax could generate an additional \$1,000. However, this would vary depending on the actual amount of tobacco sold in fiscal 2006. Moreover, if the authority is able to operate with existing resources, the poundage tax would not have to be raised to the new ceiling.

State expenditures for the board would be maintained beyond fiscal 2006. The proposed fiscal 2006 budget includes \$8,734 in special fund expenditures for the authority for operating expenses. This figure includes the elimination of the \$750 payment for nongovernment members, which members have voluntarily forgone. However, there could be some minimal savings from expense reimbursements as the bill proposes to reduce the membership of the authority. Out-year expenditures are expected to remain relatively constant.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** SB 249 (Senator Hollinger)(Chair, Education, Health, and Environmental Affairs Committee) – Education, Health, and Environmental Affairs.

**Information Source(s):** Maryland Department of Agriculture, Department of Legislative Services

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Analysis by: Michael Sanelli

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