

Department of Legislative Services
 Maryland General Assembly
 2005 Session

FISCAL AND POLICY NOTE

Senate Bill 657 (Senator Giannetti)
 Judicial Proceedings

Notaries Public - Electronic Notarization

This bill authorizes electronic notarization of electronic documents and provides for the registration of electronic notaries public with the Secretary of State.

Fiscal Summary

State Effect: General fund expenditures would increase by \$40,300 in FY 2006 to account for a notary officer in the Office of the Secretary of State to process and administer the registration of electronic notaries public. These costs also include a one-time contractual fee to develop certain database applications. Future year expenditures reflect annualization and inflation. General fund revenues could increase by an indeterminate amount.

(in dollars)	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
GF Revenue	-	-	-	-	-
GF Expenditure	40,300	43,000	45,800	48,800	52,100
Net Effect	(\$40,300)	(\$43,000)	(\$45,800)	(\$48,800)	(\$52,100)

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

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: The bill requires the Secretary of State to develop an electronic registration form to register electronic notaries. A registrant must include a description of the technology that the registrant will use to create an electronic signature to use in

performing official acts. The form must also include any decrypting instruction, code, key, or software that allows the registration to be read.

Only the notarial acts of acknowledgement and jurat may be performed electronically. The bill requires the notary to verify the identity of the signer and abide by specified nonelectronic notary rules, including those pertaining to disqualifications, avoidance of influence, and intent to deceive. An electronic notary must maintain an official journal of notarial acts performed, either as a permanently bound book or an electronic journal.

An electronic notary (or notary's duly authorized representative) who dies or whose commission is resigned or revoked, must erase, delete, or destroy the coding, disk, certificate, card, program, software, or program that enable electronic affixation of the notary's official electronic signature. Finally, the bill provides for criminal penalties associated with influencing, soliciting, and coercing misconduct by an electronic notary.

Current Law: An individual appointed as a notary public must be at least 18 years old; be of good moral character and integrity; live or work in the State; if living in the State, be a resident of the Senatorial district from which appointed; and if living outside the State, be a resident of a state that allows Maryland residents working in that state to serve as notaries public in that state.

Background: According to the U.S. Notary Association, eight states have passed legislation establishing or allowing for electronic notarization.

Notaries public are certified after completing certain procedural requirements. The commission of a notary runs four years and entitles the notary to charge up to \$2 per original notarial act. There are approximately 81,000 registered notaries public in Maryland.

Once commissioned as a notary public, a notary may notarize documents anywhere in the State. A notary must determine the identity of the person requesting a notarial act and include on each document the notary's printed name, signature, date of notarization, and expiration date of his or her commission. In addition, the notary must affix his or her notary seal or stamp to the document. The notary seal must contain the name of the notary as shown on the commission, the county where commissioned, and the words "Notary Public." A notary may serve as an official witness, administer an oath or affirmation, and take an acknowledgement. A notary must maintain a registry of all notarial acts performed.

State Fiscal Effect: The bill requires the Secretary of State to administer the registration of electronic notaries, including the creation of new forms and a database. The database will be designed by an information technology contractor, as it must be able to accept electronic submissions and retain electronic notary signatures. The Secretary of State

will also have to maintain an initial service contract with the database developer while the software is first implemented.

General fund expenditures could increase by \$40,281 in fiscal 2006, which accounts for the bill's October 1, 2005 effective date. This estimate reflects the cost of hiring one notary officer in the Office of the Secretary of State to administer the registration of electronic notaries. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Salary and Fringe Benefits	\$31,179
Information Technology and Other Operating Expenses	<u>9,102</u>
Total FY 2006 State Expenditures	\$40,281

Future year expenditures reflect: (1) full salaries with 4.6% annual increases and 3% employee turnover; and (2) 1% annual increases in ongoing operating expenses.

While the bill does not provide for a fee for the registration of electronic notaries, the Office of the Secretary of State indicates that it will likely implement a \$20 fee for electronic notary registration in addition to the current \$20 fee for traditional notary registration. This fee would be implemented by regulation. It is impossible to know how many individuals would seek certification for electronic notary status, but if 2,000 registrations were processed, the initial \$40,000 cost for the program would be negated in fiscal 2006. However, costs to a notary for the technology to create an electronic signature can reach \$600, according to a private vendor of this technology. This may deter applicants for electronic notarization.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Secretary of State, Department of Legislative Services

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