

**Department of Legislative Services**  
 Maryland General Assembly  
 2008 Session

**FISCAL AND POLICY NOTE**  
**Revised**

Senate Bill 514 (The President)  
 (By Request – Department of Legislative Services)

Judicial Proceedings Judiciary

**State Board of Law Examiners - Sunset Extension and Program Evaluation**

This bill • extends the termination date for the State Board of Law Examiners by 10 years; • increases from \$150 to \$250 for fiscal 2009 and to \$400 for fiscal 2010 and beyond the maximum examination fee, as set by the Court of Appeals, that an applicant for admission to the bar must pay to the board; and • requires an evaluation of the board by 2019. The bill also expresses the intent of the General Assembly that the expenditures associated with the State Board of Law Examiners be covered by fee revenue to the extent possible.

The bill takes effect June 1, 2008.

**Fiscal Summary**

**State Effect:** General fund revenues increase by an estimated \$483,800 annually through FY 2013. Expenditures are unaffected.

(in dollars)	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
GF Revenue	\$483,800	\$483,800	\$483,800	\$483,800	\$483,800
Expenditure	\$0	\$0	\$0	\$0	\$0
Net Effect	\$483,800	\$483,800	\$483,800	\$483,800	\$483,800

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

**Local Effect:** None.

**Small Business Effect:** None.

## Analysis

**Current Law:** The State Board of Law Examiners regulates admissions to the Bar of Maryland, subject to the authority of the Court of Appeals. The board generates revenues from bar examination and application fees. The examination fee is set by the Court of Appeals but is capped at \$150 in statute. Other fees, such as the application fee, are also set by the Court of Appeals but are not subject to any statutory limits. The current fees are shown in **Exhibit 1**.

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### Exhibit 1 State Board of Law Examiners Current Fee Schedule

Application Fee for Admission to Bar	\$175 (if timely) \$225 (if late)
Examination Fee	\$150
Out-of-state Attorney Registration Fee	\$600
Application Update Fee	\$45

Source: Rules Governing the State Board of Law Examiners

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The board is one of approximately 70 entities currently subject to the Maryland Program Evaluation Act, also known as the “sunset law,” which provides a system of periodic legislative reviews of the regulatory, licensing, and other governmental activities of various units of government. The agencies subject to review are usually subject to termination unless legislative action is taken to reauthorize them. The State Board of Law Examiners is currently scheduled to terminate on July 1, 2010.

**Background:** This bill arises out of the preliminary sunset evaluation of the board. In its January 2008 report, the Department of Legislative Services recommended that the Legislative Policy Committee waive the board from further evaluation and that legislation be enacted to extend the board’s termination date to July 1, 2020. Thus, the board would again undergo preliminary evaluation in 2017. Regulatory agencies subject to sunset review are generally reauthorized for 10 years.

DLS further recommended increasing the statutory ceiling on the examination fee from \$150 to \$400, an amount comparable to or below that in effect in most states in the region. DLS also recommended limiting the initial fee increase and requiring the Court

of Appeals to set the examination fee at a level that would allow the board to cover its expenses in administering the bar examination and to increase other fees to the appropriate level to cover associated costs.

The board last underwent a full evaluation as part of sunset review during 1998. Chapter 389 of 1999 increased the statutory cap on the bar examination fee from \$100 to \$150 and extended the termination date for the board from July 1, 1999 to July 1, 2004. The board also underwent a preliminary evaluation in 2001. The 2001 preliminary evaluation concluded the board was well run and had satisfactorily addressed the recommendations from the prior full evaluation. The preliminary evaluation recommended that the board be waived from further evaluation at that time and that the termination date be extended to July 1, 2016. The General Assembly ultimately extended the board's termination date to July 1, 2010.

HB 56/SB 142 of 2003 proposed an increase in the statutory cap on the examination fee from \$150 to \$325, based on the board's report on the need to raise fees to generate additional revenue in response to the 2001 preliminary evaluation. The proposal received an unfavorable report from both the House Judiciary Committee and Senate Judicial Proceedings Committee.

The board is funded with State general funds through the Judiciary's Court Related Agencies budget. Likewise, board revenues, primarily from bar application and examination fees, are credited to the general fund. For several years, the board's expenditures have consistently outpaced its revenues, with revenues covering only 60% to 89% of expenditures. In fiscal 2007, the overall number of applicants and examinees was lower than in previous years. Revenues that year covered only 60% of the board's expenditures, with the general fund supplementing almost \$500,000. Assuming that the number of applicants and examinees rebounds and allowing for growth in the budget, at least \$500,000 per year in additional fee revenue would be needed to cover the board's expenditures. Current fees associated with the board have been in place since 1999. The budget for fiscal 2009 is \$1.4 million

**State Fiscal Effect:** This bill increases from \$150 to \$250 the maximum bar examination fee that may be set by the Court of Appeals for an applicant for admission to the bar and further expresses the intent of the General Assembly for the expenditures associated with the State Board of Law Examiners to be covered by fee revenue to the extent possible. Thus, it is assumed that the application fee, which is not subject to any statutory limit, would be raised in addition to increasing the bar examination fee. Increasing the bar examination fee to the maximum allowed for fiscal 2009 (from \$150 to \$250) and the application fee from \$175 to \$350 (\$400 for late filers) would raise \$483,750 in general fund revenue for fiscal 2009. This estimate assumes the average

number of examinees and applicants remains constant. Assuming these two increases are instituted and that other fees collected by the board (*e.g.*, character update fees and out-of-state attorney fees) continue to generate average annual revenue of \$115,000, fee revenue attributable to the board in fiscal 2009 would be close to \$1.2 million, an amount that would be more consistent with the bill's stated intent to have expenditures of the board covered by fee revenue to the extent possible.

A combined \$275 increase in the examination and application fees would bring the total cost of bar application to \$600 (\$650 for late filers) in fiscal 2009. Any such fee increases would be in place for candidates applying in fiscal 2009 as fees to take the February bar exam are due in December and fees to take the July bar exam are due in May. These increases would place Maryland at the higher end of the states in the region in terms of total application cost but not significantly higher than the regional average.

The bill permits additional increases in the examination fee to be phased in beginning in fiscal 2010 up to a maximum fee of \$400. Other fees, such as the application fee, could be raised at any time. The board cannot control the number of applicants and examinees (and the associated revenue) it will have in a given year; thus for purposes of this note, it is assumed that fees would not be raised each year. Instead, fees would be increased when the budget clearly indicates a need, and any further fee increases have not been accounted for in this estimate. Nevertheless, assuming that expenditures associated with the State Board of Law Examiners continue to grow and that the increases set forth above are instituted, an additional increase in the examination fee may be necessary within five years. *For illustrative purposes only*, if the number of examinees remains constant, an increase of \$100 in the examination fee (from \$250 to \$350) would generate an additional \$212,500 in revenue.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** HB 771 (The Speaker) (By Request – Department of Legislative Services) – Judiciary.

**Information Source(s):** Judiciary (Administrative Office of the Courts), Department of Legislative Services

**Fiscal Note History:** First Reader - February 20, 2008  
ncs/ljm Revised - Enrolled Bill - May 5, 2008

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