

**Department of Legislative Services**  
Maryland General Assembly  
2010 Session

**FISCAL AND POLICY NOTE**

House Bill 81

(Chair, Economic Matters Committee)(By Request -  
Departmental - Labor, Licensing, and Regulation)

Economic Matters

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**State Board of Cosmetologists - Hearing Board**

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This departmental bill authorizes the State Board of Cosmetologists to create a three-member hearing board to address matters currently requiring a hearing before the full board. Unless the board or a member of the board requests a formal hearing for matters decided by the hearing board, decisions of the hearing board are final and subject to judicial review.

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**Fiscal Summary**

**State Effect:** General fund expenditures by the Department of Labor, Licensing, and Regulation (DLLR) increase by \$3,400 in FY 2011 for additional expenses to have court reporters. Out-year expenditures reflect annualization and inflation. General fund revenues increase by \$4,500 in FY 2011 due to additional civil fines. Out-year revenues reflect annualization.

(in dollars)	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
GF Revenue	\$4,500	\$6,000	\$6,000	\$6,000	\$6,000
GF Expenditure	\$3,400	\$4,500	\$4,600	\$4,600	\$4,700
Net Effect	\$1,100	\$1,500	\$1,400	\$1,400	\$1,300

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

**Local Effect:** None.

**Small Business Effect:** DLLR has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment.

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## Analysis

**Current Law:** Prior to taking any final action against a licensee, the board must give the licensee the opportunity to have a hearing before it. The board conducts its own hearings rather than referring cases to the Office of Administrative Hearings. Formal hearings are official legal proceedings and must follow procedures established in the State's Administrative Procedure Act. They include court reporters, and respondents may be represented by legal counsel. At the conclusion of the formal hearing, the board may vote on possible sanctions, which represent the board's final action. Final actions are subject to judicial review by the circuit court.

The board has seven members appointed by the Governor with the advice of the Secretary of Labor, Licensing, and Regulation. Four members must be licensed cosmetologists who have practiced for at least five years prior to their appointment; one member must be an owner or educator affiliated with a private cosmetology school; and two must be consumers. Members serve staggered three-year terms and may not serve more than two consecutive terms, although they continue to serve until a replacement is found. Members are entitled to a reasonable fee set by the board for each day in which they are engaged in official duties; however, in practice, board members do not receive any compensation. They are entitled to reimbursement for expenses. The board meets monthly.

**Background:** According to DLLR, the board regulates over 45,000 individuals and businesses. The board currently has a pending backlog of 80 cases awaiting a hearing. Because formal hearings tend to take about two or three hours to complete (often due to the additional time required to provide simultaneous translations for respondents who do not speak fluent English), the board typically schedules no more than two formal hearings per meeting. Given the board's meeting schedule, the maximum number of formal hearings that can be held in a given year is 24. DLLR advises that creating a three-member hearing board allows for the adjudication of approximately 25 additional cases annually.

Three commissions housed within DLLR's Division of Occupational and Professional Licensing are authorized to operate hearing boards; these include the Real Estate Commission, the Commission of Real Estate Appraisers and Home Inspectors, and the Maryland Home Improvement Commission.

**State Fiscal Effect:** Based on DLLR's estimate that the board can hold an additional 25 hearings annually as a result of the bill, Legislative Services estimates that the additional hearings result in approximately \$6,000 in additional fines each year. Any violations found during routine or board-directed inspections are subject to a maximum fine of \$300 for all violations observed on a single day. The estimate for additional

revenue is based on 15 cases resulting in the maximum fine, 10 cases resulting in an average fine of \$150, and 5 cases resulting in no fine. Therefore, based on the bill's October 1, 2010 effective date, general fund revenues increase by \$4,500 in fiscal 2011. General fund expenditures increase by \$3,375 in fiscal 2011 to reflect a rise in contractual expenses for court reporting due to the board's additional workload. Future year expenditures reflect annualization and inflation.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

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

**Fiscal Note History:** First Reader - January 15, 2010  
mlm/mcr

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## ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: State Board of Cosmetologists – Hearing Board

BILL NUMBER: HB 81

PREPARED BY: Department of Labor, Licensing and Regulation

### PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

☒ WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL  
BUSINESS

OR

☐ WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL  
BUSINESSES

### PART B. ECONOMIC IMPACT ANALYSIS

The proposed legislation will have no impact on small business in Maryland.