

Department of Legislative Services
Maryland General Assembly
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FISCAL AND POLICY NOTE

Revised

House Bill 487

(Delegate McIntosh)(Chair, Environmental Matters
Committee)

Environmental Matters

Education, Health, and Environmental Affairs

**Environment - State Board of Waterworks and Waste Systems Operators - Sunset
Extension and Revisions**

This bill extends the termination date for the State Board of Waterworks and Waste Systems Operators from July 1, 2011 to July 1, 2021, and requires an evaluation of the board by July 1, 2020. The bill also requires that the board, in conjunction with the Maryland Department of the Environment (MDE), report to specified committees of the General Assembly by October 1, 2011, on specified items generally relating to the nonstatutory recommendations made in the recent sunset evaluation of the board by the Department of Legislative Services (DLS). The board's membership is altered by substituting a representative of the Maryland Environmental Service for the current representative from the Department of Natural Resources. Finally, the bill clarifies that it is the duty of MDE, and not the board, to enforce specified sections of law relating to the board, and eliminates several obsolete references related to limited certificates.

Fiscal Summary

State Effect: General fund expenditures and revenues are maintained for the board beyond FY 2011. The Governor's proposed FY 2011 budget includes \$238,280 for board operations. The board's average annual revenues for the last five years were about \$215,400. However, although not required by this bill, the board is expected to raise fees sufficient to cover its general fund appropriation beginning in FY 2011. It is assumed that the board and MDE can handle the bill's reporting requirement with existing resources.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Current Law: The State Board of Waterworks and Waste Systems Operators will terminate July 1, 2011, unless reauthorized. The board was created by Chapter 430 of 1957 to examine and certify the superintendents of waterworks and waste systems. In 1982, the board's regulatory purview increased to include operators in addition to the superintendents. An operator of either waterworks or waste systems participates in the control of the flow, treatment, or discharge of water or wastewater; a superintendent is certified as the individual who is in charge at the facility. By also certifying operators, the State intended to more adequately protect the public from the harmful effects of ill-treated water. Maryland established the board more than four decades before being required by federal law and was certifying operators nearly two decades before the federal requirement.

Background:

The Practice of Water and Wastewater Treatment

According to the U.S. Department of Labor's Bureau of Labor Statistics, waterworks operators treat water so that it is safe to drink, and waste systems operators remove harmful pollutants from domestic and industrial waste so that it is safe to return to the environment. Drinking water is pumped from wells, rivers, streams, and reservoirs to water treatment plants, where it is treated and distributed to customers. Wastewater travels through customers' sewer pipes to wastewater treatment plants, where it is treated and either returned to streams, rivers, and oceans or reused for irrigation and landscaping. Operators in both types of plants control equipment and processes that remove or destroy harmful materials, chemicals, and microorganisms and control pumps, valves, and other equipment that moves the water or wastewater. Water quality standards are largely set by two major federal environmental statutes: the Safe Drinking Water Act, which specifies standards for drinking water, and the Clean Water Act, which regulates the discharge of pollutants.

State Board of Waterworks and Waste Systems Operators

The board is one of about 70 entities currently subject to periodic evaluation by DLS under the Maryland Program Evaluation Act. The Act establishes a process better known as "sunset review." The sunset review process begins with preliminary evaluation conducted by DLS on behalf of the Legislative Policy Committee (LPC). LPC decides whether to waive an agency from further (or full) evaluation. Prior to 2009, the board last underwent full evaluation as part of sunset review in 1989. However, preliminary evaluations were conducted in both 1998 and 2008. The 1998 preliminary evaluation recommended that the board be waived from full evaluation. Chapter 240 of 1999

extended the board's termination date by 10 years to July 1, 2011. The 2008 preliminary evaluation recommended that a full evaluation be conducted to examine the impact, if any, on health and safety posed by the significant number of uncertified operators – particularly at small facilities. LPC concurred with this recommendation. Thus, during the 2009 interim, DLS conducted a full evaluation of the board to further examine the problem presented by facilities without certified operators and to provide the General Assembly with additional information in making the determination about whether to reauthorize the board and for what period of time.

The board oversees about 3,600 certificate holders who hold approximately 7,500 certificates – with many individuals certified in multiple facility treatment technologies. Of these 7,500 certificates, about 36% are held by waterworks operators and superintendents, and about 64% by waste systems operators and superintendents.

The 2009 sunset evaluation found that a significant number of waterworks and waste systems in the State do not employ either an operator, superintendent, or both. Moreover, the administrative and enforcement databases used to track the employment of operators and superintendents are antiquated or insufficient. Finally, while the board was found to be fully capable of ensuring that operators and superintendents are rigorously examined and highly qualified, significant statutory ambiguity and a lack of resources have led to a situation of widespread noncompliance with the requirement to maintain certified operators and superintendents, particularly at smaller facilities. This bill generally embodies the statutory recommendations developed by DLS during the evaluation. Specifically, DLS recommended that statute be amended to clarify that MDE is the entity responsible for enforcement of specified requirements; that statute be amended to repeal obsolete provisions related to the issuance of a limited certificate; that the termination date of the board be extended by 10 years; and that the board be required to report on the status of the nonstatutory recommendations contained in the evaluation.

The nonstatutory recommendations made in the sunset evaluation are as follows:

- MDE should develop a database to be used for tracking waste systems facilities in the State;
- MDE should ensure that its existing database is capable of tracking the employment of superintendents at facilities;
- the board, in conjunction with MDE, should report on whether to amend statute to exempt facilities of a certain size or type from the requirement to employ a certified superintendent;
- the board should promote the use of circuit riders to service smaller facilities;

- the board should monitor the use of circuit riders at previously noncompliant facilities and whether compliant facilities are choosing to use circuit riders instead of full-time operators;
- the board should adopt regulations establishing its circuit rider experience crediting policy;
- MDE should upgrade the board's administrative database;
- the board should ensure that its web site upgrade include resources for operators, prospective operators, facility owners, and the public;
- MDE should use its penalty authority and evaluate the necessity of changes to that authority;
- MDE should continue to support pre-examination training opportunities for operators;
- the board should continue its current efforts to implement computer-based examinations; and
- the board should continue its efforts to adjust its fee in order to generate sufficient fee revenue for the general fund to cover board expenditures.

Additional Information

Prior Introductions: None.

Cross File: SB 326 (Senator Conway)(Chair, Education, Health, and Environmental Affairs Committee) - Education, Health, and Environmental Affairs.

Information Source(s): Department of Legislative Services

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