

Department of Legislative Services
Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE

Revised

Senate Bill 327

(Senator Conway)(Chair, Education, Health, and
Environmental Affairs Committee)

Education, Health, and Environmental Affairs

Economic Matters

State Board of Barbers and State Board of Cosmetologists - Sunset Extension and Revisions

This bill extends the termination dates for the State Board of Barbers and State Board of Cosmetologists by 10 years to July 1, 2021, and requires evaluation of the boards by July 1, 2020. The bill changes various statutory provisions related to the regulation of barbers and cosmetologists in the State. The bill includes a related reporting requirement.

The bill takes effect July 1, 2010.

Fiscal Summary

State Effect: General fund revenues and expenditures for the boards are maintained beyond FY 2011. The FY 2011 budget includes \$94,470 for the operations of the State Board of Barbers and \$567,031 for the operations of the State Board of Cosmetologists. The bill's reporting requirements can be handled with existing budgeted resources.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Bill Summary/Current Law:

Inspection of Barbershops, Beauty Salons, and Barber and Cosmetology Schools

The bill makes inspection procedures for beauty salons consistent with those of barbershops and makes other technical changes to the boards' respective inspection authorizations to make them consistent with current practice.

Fee Increase Authorized for Cosmetology Board

The bill repeals the statutorily mandated \$25 initial or renewal licensing fees for cosmetologists, senior cosmetologists, estheticians, and nail technicians. The bill allows the cosmetology board to establish reasonable fees for initial and renewal licensing. However, the bill specifies that the board's initial or renewal licensing fees may not exceed \$50. The fees established by the board must be set in a manner that will produce funds to cover actual direct and indirect costs of regulating the cosmetology industry.

The bill also specifies that the barber board's licensing fees may not exceed \$50, which is their current level.

Renewal of Apprentice Registrations

Under the bill, individuals who hold an apprentice barber or cosmetologist registration may renew their registrations for an additional two-year term. Currently, the two boards have different policies related to the renewal of an apprentice registration. The barber board requires an apprentice to take the barber licensing examination prior to the end of the initial term of apprenticeship. Apprentices who fail the journey barber examination may renew their apprenticeship for one additional term. The cosmetology board currently registers apprentices on a one-year staggered basis, and the registration may be renewed two times. However, an apprenticeship for any limited practice of cosmetology may only be renewed for an additional year, as the initial registration is only for one year.

Establishment of Curriculum Standards

The bill requires the boards to adopt regulations that detail curriculum standards for use by the State Board of Education or the Maryland Higher Education Commission (MHEC) in approving applications for instruction in the practice of barbering or cosmetology at public schools or private career schools.

Background:

Maryland Program Evaluation Act

The boards are two of approximately 70 entities currently subject to periodic evaluation under the Maryland Program Evaluation Act. The Act establishes a process better known as “sunset review” as most agencies evaluated are also subject to termination, including both boards, which are scheduled to terminate July 1, 2013. During the 2009 interim, the Department of Legislative Services (DLS) conducted a full evaluation of the State Board of Barbers and the State Board of Cosmetologists under the Act. The bill embodies several of the statutory recommendations developed by DLS during the evaluation.

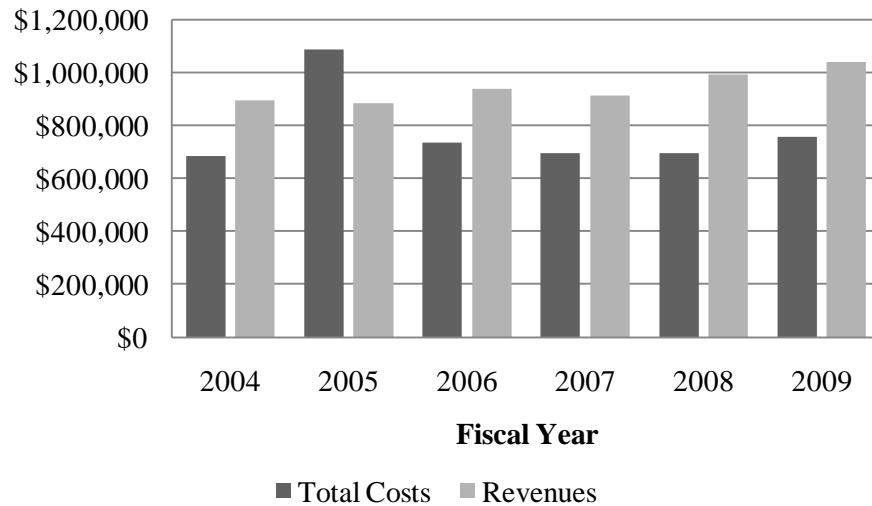
Boards Are Supported by General Funds

The boards are funded by general fund appropriations. Revenues are generated by license, renewal, and inspection fees as well as inspection fines, which are credited to the general fund. Some general funded boards operate at a loss, especially when including indirect costs. However, as discussed below, the barber and cosmetology boards consistently earn excess revenues.

With some exceptions, each board’s revenues generally have grown, due largely to the expansions of the cosmetology industry and to a smaller extent due to a recent focus by the board on inspections and fine issuance. In fiscal 2008, the boards collected just over \$2,000 in fines. In fiscal 2009, collections rose to just under \$18,000.

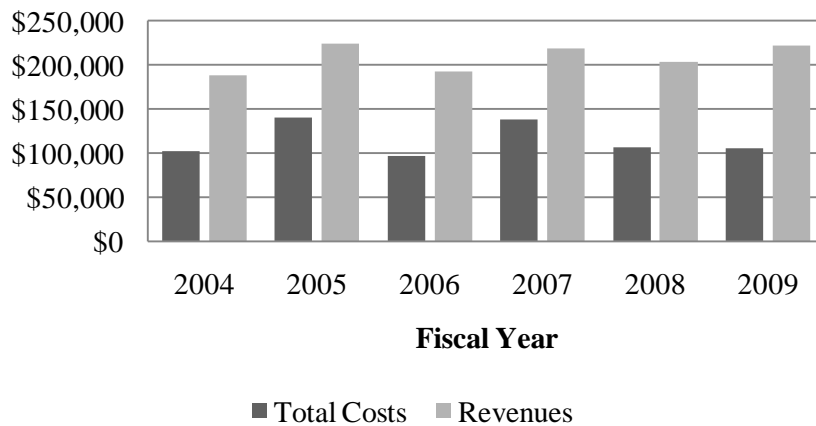
Exhibits 1 and 2 show the extent to which revenues exceed expenditures each year. In recent years, the revenues of the barber board have been twice that of its expenditures. Under the cosmetology board, revenues generally have exceeded expenditures by between 30% and 40%. The exception is fiscal 2005, when expenditures exceeded revenues by almost \$205,000 because the Department of Labor, Licensing, and Regulation (DLLR) implemented electronic licensing and had higher information technology costs than usual. In large part, the magnitude of excess revenues has been related to the lower staffing levels in recent years.

Exhibit 1
State Board of Cosmetologists
Revenues and Expenditures
Fiscal 2004-2009



Source: Department of Labor, Licensing, and Regulation

Exhibit 2
State Board of Barbers
Revenues and Expenditures
Fiscal 2004-2009



Source: Department of Labor, Licensing, and Regulation

DLLR advises that the cosmetology board will not increase its fees because the board currently generates more revenue than it needs to regulate the industry.

Licensing Fees Are Relatively Low

Current fees charged by the boards range between \$10 and \$50 (including shop licenses). In 1991 the barber board was authorized to set fees by regulation, but it has not made any changes since 1992. The initial and renewal license fees for the cosmetology board are set in statute and have not changed since 1997; however, the board raised the examination fees in 2003, following the selection of a new examination vendor. Similarly, a new vendor contract has recently been put in place and a \$5 increase in examination fees is pending for both boards. Examination fees are set in regulations and are paid directly to the examination vendor.

The license fees charged by the boards are among the lowest of the occupations and professions regulated by DLLR. The fees for barber licenses are, however, comparable to the licensing fees in other states, while cosmetologist license fees are among the lowest. Based on the available data, the fees in other states range from a \$10 apprentice registration to a \$200 shop permit.

Boards Regulate More than 50,000 Licensees

The cosmetology board issues four types of professional licenses, three types of apprentice registrations, and two types of shop owner permits. The four professional licenses include senior cosmetologist and cosmetologist as well as “limited practice” licenses for estheticians and nail technicians. The limited practice licenses allow licensees to provide only the services included in the statutory definition of esthetic services and nail technician services, respectively. The board also awards apprentice registrations for cosmetologists, estheticians, and nail technicians, and permits to shop owners for full-service salons and limited-practice salons (typically nail salons). The barber board issues two professional licenses (master barber and barber), an apprentice registration, and a barbershop owner permit. A licensed cosmetologist, esthetician, nail technician, or barber who also owns a shop must have both a professional license and a shop permit. Shop owners are not required to have a professional license if they do not personally provide service to customers. In all, DLLR reports that the boards had 52,533 licensees in fiscal 2009. All professional licenses and shop permits are subject to staggered biennial renewal.

Inspection Program Suffers from Inadequate Funding and Limited Staff

The two boards share a full-time staff – consisting of an executive director, an assistant director, two clerical staff – and per diem shop inspectors. In each of fiscal 2008 and 2009, board inspectors conducted approximately 4,000 routine inspections and found

more than 500 violations per year. The board is authorized to assess a maximum fine of \$300 for all violations found in a single shop on a given day, but only after the licensee has an opportunity for a hearing before the appropriate board. With approximately 3,200 salon and barbershop permits, the boards averaged slightly more than one routine inspection for each permitted establishment. That falls short of the boards' goals that each shop be inspected at least three times a year, which was adopted when the boards were fully funded and had approximately 20 inspectors. Funding for the inspection program has been cut dramatically at various times over the last decade; at one time the boards employed only two inspectors.

Chapter 392 of 2005 authorized the boards' inspectors to issue citations to licensees for certain violations. The expectation was that most establishments would choose to pay the relatively small fines rather than take the time to contest them, thereby easing the severe backlog in board hearings and increasing fine revenue. Implementation of the program was delayed repeatedly due to various issues, including cost-containment measures that reduced the number of inspectors and administrative staff to process the citations.

The creation of a special fund for the boards and granting the State Board of Cosmetologists authority to set licensing fees (consistent with the existing authority of the State Board of Barbers) allows the boards to address the inspection shortfalls and implement the citation program. The 2009 full evaluation recommended increasing the cosmetology board's licensing fees by \$25, which would enable the boards to hire five new inspectors and three office staff to address the inspection backlog and address other administrative workload issues.

Apprenticeship Program Lacks Accountability

Most licensees enter the industry by graduating from an accredited school of cosmetology or barbering. However, an alternative to licensure is available through the apprentice barber and cosmetologist programs. An individual without access or resources to afford barbering or cosmetology school may instead become a licensed apprentice under the guidance and sponsorship of a master barber or senior cosmetologist. This program allows the apprentice a practical learning environment and a source of income while providing services for the sponsor and the permitted shop.

There are numerous requests for both renewal and restarts of apprenticeship registrations due to failure to meet the training commitments during the initial registration term. Often, the apprentices and their sponsors claim to not have been aware of the requirements. The overriding reason, among many, that the candidates do not complete apprenticeships is their failure to understand the requirements and lack of communication with sponsors. There is no accountability for the sponsors at any part of the process.

Boards' Role in Curriculum Approval Is Limited

According to board members and MHEC staff, the boards play little if any role in reviewing proposed curricula at private barbering and cosmetology schools, despite the statutory requirement that MHEC and Maryland State Department of Education (MSDE) approve school curricula with board advice.

Currently, MHEC relies on an independent advisor to review proposed curricula in cosmetology prior to giving its approval. Neither board has established detailed curriculum guidelines for schools. Board regulations only list the topics to be covered by licensing exams, which serve as *de facto* standards; the list lacks sufficient detail, including the relative attention that should be given to each subject.

Additional Information

Prior Introductions: None.

Cross File: HB 197 (Chair, Economic Matters Committee) - Economic Matters.

Information Source(s): Department of Budget and Management; Maryland State Department of Education; Maryland Higher Education Commission; Department of Labor, Licensing, and Regulation; Department of Legislative Services (Office of Legislative Audits)

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