

Department of Legislative Services
Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE

House Bill 765

(Delegate Conaway, *et al.*)

Judiciary

Attorney Grievance Commission - Surplus Funds and Budget Procedures

This bill requires any unspent portions of the Disciplinary Fund of the Attorney Grievance Commission to revert to the general fund and requires the commission to submit its annual budget to the Department of Budget and Management (DBM).

The bill takes effect July 1, 2011.

Fiscal Summary

State Effect: To the extent unspent monies in the Disciplinary Fund revert to the general fund, general fund revenues increase in the subsequent fiscal year. Expenditures are not affected.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law/Background: The Attorney Grievance Commission was established in 1975 by rule of the Court of Appeals to investigate and adjudicate complaints against lawyers practicing in Maryland. The commission oversees the conduct of both Maryland lawyers and nonmembers of the Maryland Bar who engage in the practice of law in the State. The commission investigates and, where indicated, prosecutes attorneys whose conduct violates the Maryland Lawyers Rules of Professional Conduct as well as those engaged in the unauthorized practice of law. In fiscal 2009, the commission received 20 complaints alleging professional misconduct; in fiscal 2010, 14 such complaints were received.

The commission is funded by annual assessments paid by attorneys who practice in the State and deposited into the Disciplinary Fund. This fee is not established in statute or regulations. The assessment amount was last increased in 2003, when the Judiciary informed the commission's chairman of a \$35 increase for fiscal 2005 and a \$5 increase for the next five consecutive fiscal years. The fee is currently \$125 payable to the Disciplinary Fund. The fund's actual and estimated revenues and expenditures for fiscal 2006 through 2012 are provided in **Appendix 1**. The fund had a fiscal 2010 closing balance of \$7.9 million.

Currently, the commission does not receive an annual appropriation for its expenditures, so its budget is not subject to legislative oversight. However, in a February 2011 letter, the Office of the Attorney General advises that (1) the Disciplinary Fund consists of "moneys of the State;" (2) the General Assembly has the power to codify the Disciplinary Fund in State law; and (3) it is appropriate for the Disciplinary Fund to be included in the Judiciary's budget.

Additional Comments: Since the bill does not establish the Disciplinary Fund as a special fund, it will still not be subject to legislative oversight as part of the annual budget process. It is not clear (1) whether or how the Disciplinary Fund will be incorporated into the Judiciary's budget; and (2) what DBM would do with the commission's annual budget submission.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Budget and Management, Judiciary (Administrative Office of the Courts), Attorney Grievance Commission, Department of Legislative Services

Fiscal Note History: First Reader - March 1, 2011
ncs/rhh

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**Appendix 1
Attorney Grievance Commission
Revenues and Expenses
Fiscal 2006-2012**

	<u>FY 2006</u>	<u>FY 2007</u>	<u>FY 2008</u>	<u>FY 2009</u>	<u>FY 2010</u>	<u>FY 2011 Est.</u>	<u>FY 2012 Est.</u>	<u>Avg. Annual % Change</u>
<i>Complaints Received</i> ¹	2,244	1,940	2,053	1,885	2,003	2,003	2,003	-1.9%
Starting Balance	\$1,383,654	\$2,329,797	\$3,664,335	\$4,884,760	\$6,203,258	\$7,853,786	\$9,038,343	36.7%
Revenues ²	3,764,930	4,112,759	4,374,025	4,554,641	4,761,194	4,755,277	4,800,000	4.1%
Expenditures ²	2,818,787	2,778,221	3,153,600	3,236,143	3,110,666	3,570,720	3,800,000	5.1%
Ending Balance	\$2,329,797	\$3,664,335	\$4,884,760	\$6,203,258	\$7,853,786	\$9,038,343	\$10,038,343	27.6%

¹ The Attorney Grievance Commission noted difficulties with providing estimates of complaints received in fiscal 2011 and 2012. *For illustrative purposes*, Legislative Services estimates that complaints received will remain level with fiscal 2010.

² Revenues and expenditures for fiscal 2011 are based on the budget submitted by the commission. However, fiscal 2012 is an estimate.

Source: Attorney Grievance Commission Annual Reports