

Department of Legislative Services
Maryland General Assembly
2012 Session

FISCAL AND POLICY NOTE

Senate Bill 96

(The President)(By Request - Department of Legislative Services)

Education, Health, and Environmental Affairs

Economic Matters

Occupational and Professional Licensing Design Boards - Sunset Provisions and Program Evaluation

This bill extends the termination date for the State Board of Certified Interior Designers by 10 years to July 1, 2024, and requires an evaluation of the board by July 1, 2023. In addition, the bill makes permanent (1) the fee-setting authority for all five “design boards;” (2) the Occupational and Professional Licensing Design Boards’ Fund; and (3) related reporting requirements.

The bill takes effect July 1, 2012.

Fiscal Summary

State Effect: Special fund revenues and expenditures for the board are maintained beyond FY 2014. The Governor’s proposed FY 2013 budget includes \$32,676 for board operations. Absent the bill, all five design boards would become general funded in FY 2014, and the fee structure in place in FY 2003 would be reinstated; the impact on the general fund would be negative.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law/Background:

Maryland Program Evaluation Act

The board is 1 of approximately 70 regulatory entities and activities currently subject to periodic evaluation under the Maryland Program Evaluation Act. The Act establishes a process better known as “sunset review” as most entities evaluated are also subject to termination, including the State Board of Certified Interior Designers, which is scheduled to terminate July 1, 2014. The sunset review process begins with a preliminary evaluation conducted by the Department of Legislative Services (DLS) on behalf of the Legislative Policy Committee (LPC). LPC decides whether to waive an agency from further (or full) evaluation. If waived, legislation to reauthorize the agency typically is enacted. Otherwise, a full evaluation usually is undertaken the following year.

The board underwent a preliminary evaluation in 2011, in which DLS recommended waiving a full evaluation; LPC approved the waiver at its December 13, 2011 meeting.

The State Board of Certified Interior Designers

Chapter 663 of 1991 (the Maryland Certified Interior Designers Act) established the State Board of Certified Interior Designers, which regulates the title of “certified interior designer.” The board is one of five “design boards” under the Department of Labor, Licensing, and Regulation’s (DLLR’s) purview. (All five design boards have recently been evaluated as part of the sunset review process. The other design boards include the State Board for Professional Engineers, the State Board for Professional Land Surveyors, the State Board of Architects, and the State Board of Examiners of Landscape Architects.) The interior design board is the only design board that does not operate pursuant to a practice act. The board consists of seven members: five certified interior designers, one licensed architect who provides interior design services, and one consumer. All five interior designer members must have at least five years of experience immediately prior to appointment. As of the 2011 preliminary sunset review, the board had two vacancies (one certified interior design member and the architect member); both positions had been vacant since May 2011.

Certification of Interior Designers

As of November 2011, there were 315 active certificate holders in the State. As a point of reference, there were 288 certificate holders at the time of the 2002 sunset evaluation. To be eligible for certification, an individual must meet the education and experience requirements necessary to qualify and pass the National Council for Interior Design

Qualification (NCIDQ) exam. Prior to sitting for the exam, a candidate must have a combination of six years of education and work experience, which can be accomplished through several different paths. The board does not administer the exam, but its membership in NCIDQ guarantees that at least one exam will be offered annually within the State. Although the exam covers a broad range of matters that interior designers use in their daily practice, it only tests knowledge and skills that protect public health, safety, and welfare (*e.g.*, design history and furniture styles are not covered).

Certificates must be renewed on a biennial basis. Certificate renewal can be done electronically through the DLLR website, and there is a renewal fee of \$68. For late renewals by individuals, there is a \$100 reinstatement fee. When individuals renew their certificates online, approximately 5% to 10% of applications are randomly selected to be audited. Those individuals must submit proof of compliance to the board. In June 2011, regulations were finalized to make it a violation of the code of ethics to fail to respond to a communication from the board.

One continuing education unit (CEU) is required for a timely renewal, and certified interior designers must earn two CEUs in the two-year period immediately preceding a reinstatement request. One CEU equals 10 hours of study. Regulations require that the course must contribute directly to the enhancement of professional competency of an individual to provide interior design services and have the protection of health, safety, and welfare of the public as a clear purpose and objective. Marketing courses, unless otherwise determined by the board, are generally not approved for CEUs.

Professional Licensing Design Boards' Fund

A pilot program established by Chapter 227 of 2003 created the State Occupational and Professional Licensing Design Boards' Fund to ensure that costs for the five design boards, in the aggregate, were covered by their combined revenues. This pilot program was recommended by DLS in the 2002 full evaluation of the State Board of Certified Interior Designers. All five design boards favored the clustering approach that was taken. Prior to the enactment of Chapter 227, the design boards were all general funded as individual programs, with some fees set in statute and others set by regulation. The design boards' fund, fee-setting authority for all five design boards, and related reporting requirements were set to terminate on June 30, 2008; however, Chapter 273 of 2008 extended the respective termination dates to June 30, 2013.

With consent of the boards, DLLR is authorized to average the direct and indirect costs among the boards to establish fees that distribute the costs associated with the operation of each board across all five boards. With these calculations in mind, the boards are all charged with setting reasonable fees for their services by regulation. For example, using this authority, license renewal fees were set in 2003 at \$78 for all five professions. Prior

renewal fees had ranged from a high of \$200 for landscape architects and interior designers to a low of \$20 for architects and professional engineers; land surveyors had paid a renewal fee of \$60. When these initial design boards' fees were set, DLLR licensed 14,000 professional engineers and 5,500 architects, but only 1,050 professional land surveyors, 715 landscape architects, and 290 certified interior designers.

Recent DLS sunset reviews of all five design boards confirmed that the design boards' special fund has been operating as intended, allowing the boards to equalize and stabilize fees among the five professions. In addition, DLS advises that the design boards showed financial responsibility by reducing renewal fees from \$78 to \$68 in fiscal 2007, when the fund balance was larger than needed to maintain the boards' operations as well as a prudent surplus. At the end of fiscal 2011, the balance in the fund was \$240,691. DLLR also advises, and DLS concurs, that the design boards could not maintain current services, staffing, and expenditures if they were to revert to being general funded without the benefit of shared costs. For example, in 2001, the renewal fee for interior designers would have had to be set at \$305 to recoup sufficient revenues for the general fund to cover board costs at that time; it would have to be even higher today if the clustering approach were to terminate.

Sunset Evaluation Findings and Recommendations

In the preliminary sunset evaluation of the board, DLS found that, though the work of the board is limited by the current statutory "title act" structure, the board is fulfilling its statutory duty of protecting the title of "certified interior designer." The board has taken steps to ensure that members of the public who choose to engage the services of a "certified interior designer" are afforded the most protection possible, by monitoring compliance with continuing education requirements and taking steps to make sure that the requirements stay current. The board has also improved outreach specific to interior designers by improving its website and participating in design conferences and exhibitions. It has also made efforts to improve educational opportunities in the State for prospective interior design students by initiating communication with schools to develop interior design programs. Furthermore, the implementation of the Joint Chairs Committee and its newsletter has improved communication to the design community as a whole.

Including certified interior designers in the cluster of design boards enhances design coordination on projects and allows opportunities for consumer protection by requiring and regulating the use of an official seal. Finally, past actions of the General Assembly appear to indicate the intention to continue the board and its regulation of certified interior designers as a title act. Consequently, DLS recommended that LPC waive the board from full evaluation and that legislation be enacted to extend the board's termination date by 10 years to July 1, 2024, and to make the design boards' special fund

permanent. This bill implements DLS' recommendations as adopted by LPC at its December 13, 2011 meeting.

A copy of the 2011 DLS preliminary sunset report on the State Board of Certified Interior Designers can be found at <http://dls.state.md.us/Content.aspx?page=104>.

Additional Information

Prior Introductions: None.

Cross File: HB 74 (The Speaker)(By Request - Department of Legislative Services) - Economic Matters.

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