

Department of Legislative Services
Maryland General Assembly
2012 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 577

(Senator Reilly, *et al.*)

Finance

Health and Government Operations

State Traumatic Brain Injury Trust Fund

This bill establishes the State Traumatic Brain Injury Trust Fund as a special, nonlapsing fund to support specified services for individuals who have sustained traumatic brain injuries (TBI). The Department of Disabilities (DOD) must administer the fund, which consists of money appropriated in the State budget to the fund, investment earnings of the fund, and any other money accepted from any other source for the benefit of the fund.

Fiscal Summary

State Effect: Because the bill establishes the State Traumatic Brain Injury Trust Fund but does not establish any means (beyond general funds) of capitalizing the fund, general fund expenditures increase beginning in FY 2013 by an estimated \$500,000 annually to capitalize the fund. Correspondingly, special fund revenues and expenditures increase by \$500,000 annually beginning in FY 2013 to reflect general funds received and grants awarded, respectively. The bill does not specifically allow for administrative costs; thus, general fund expenditures increase by an additional \$26,600 (for a total of \$526,600) beginning in FY 2013 for DOD to hire at least one part-time (50%) administrator to assist with fund administration. Future year expenditures reflect annualization and inflation for the administrative costs.

| (in dollars) | FY 2013 | FY 2014 | FY 2015 | FY 2016 | FY 2017 |
|----------------|-------------|-------------|-------------|-------------|-------------|
| SF Revenue | \$500,000 | \$500,000 | \$500,000 | \$500,000 | \$500,000 |
| GF Expenditure | \$526,600 | \$532,900 | \$535,100 | \$536,800 | \$538,500 |
| SF Expenditure | \$500,000 | \$500,000 | \$500,000 | \$500,000 | \$500,000 |
| Net Effect | (\$526,600) | (\$532,900) | (\$535,100) | (\$536,800) | (\$538,500) |

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

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: The purpose of the fund is to assist eligible individuals in the provision of durable medical equipment; assistive technology assessment and equipment; neuropsychological evaluation; services to assist in a return to driving and related evaluation and training; and medical, individual case management, rehabilitation, neurobehavioral health, nursing home transition, community reentry, educational, transportation, and housing and residential services. The fund may also be used to support prevention, education, and awareness programs. Interest earnings of the fund do not accrue to the general fund.

To be eligible for assistance from the fund, an individual must (1) have a documented TBI; (2) have been a U.S. citizen and State resident at the time of the injury; (3) have income no greater than 300% of the federal poverty level; and (4) have exhausted all other health, rehabilitation, and disability funding sources that cover services provided by the fund. Money expended from the fund is supplemental to – and not intended to take the place of – funding that would otherwise be appropriated for those services. An individual is prohibited from receiving from the fund services costing more than the maximum annual or lifetime amounts established by policies and procedures adopted by DOD.

DOD must report annually to the Governor and the General Assembly on the number of individuals served and the services provided in the preceding year using the fund.

The bill prohibits DOD from hiring an employee to administer the fund until the balance of the fund is at least \$500,000.

Current Law/Background: Chapter 306 of 2005 codified the establishment of the State Traumatic Brain Injury Advisory Board, which had been in existence since 1999 and is staffed by the Department of Health and Mental Hygiene and DOD. The board is charged with investigating the needs of citizens with TBI; identifying gaps in services to citizens with TBI; facilitating collaboration among State agencies serving individuals with TBI; facilitating collaboration among organizations and entities serving individuals with TBI; encouraging and facilitating community participation in program implementation; and issuing an annual report that summarizes the board's actions and contains recommendations. The board must include, in its annual report, recommendations for providing oversight in acquiring and utilizing State and federal funds dedicated to services for individuals with TBI; building provider capacity and

provider training that addresses the needs of individuals with TBI; and improving the coordination of services for individuals with TBI.

In its 2011 annual report, the board recommended that the State Traumatic Brain Injury Trust Fund be established to provide urgently needed services to the increasing number of State residents who have (or will have) TBI and have exhausted all other available resources. The board suggested in its recommendation that the fund receive \$2.5 million annually and that the main source of funding be an additional charge to individuals fined under State motor vehicle laws.

The Mental Hygiene Administration (MHA) is designated in regulation as the State's lead agency for service delivery to individuals with TBI. MHA administers (in conjunction with the Medical Assistance Program) the Waiver for Adults with TBI, which is a Medicaid waiver program that provides opportunities for community-based services to individuals who have experienced TBI after the age of 21 and who meet the program's medical, financial, and technical criteria. Technical eligibility criteria require that individuals are residents in State psychiatric hospitals, State-owned and operated nursing facilities, or Maryland-licensed chronic hospitals that are accredited in inpatient brain injury rehabilitation.

In 2012, according to the board, more than 40,000 State residents will sustain a life-altering TBI requiring a hospital or emergency room visit and more than 7,000 will be hospitalized for TBI.

State Fiscal Effect:

Capitalization of the Fund

The bill establishes the State Traumatic Brain Injury Trust Fund but does not provide for a dedicated revenue source for the fund. Thus, this estimate reflects the cost of capitalizing the fund with at least \$500,000 in general fund expenditures each year – the minimum amount to ensure viability of the fund. To the extent that funds are received from another source, such as federal or private grant funding, general fund expenditures to capitalize the fund may be reduced.

Special fund expenditures increase by up to \$500,000 annually beginning in fiscal 2013 to reflect grants awarded. Actual grant funding will depend on the amount of any State budget appropriation to the fund or any other moneys received from another source for the fund.

Administration of the Fund

The bill specifies that DOD may not hire an employee to administer the fund until the balance of the fund is at least \$500,000. Because \$500,000 represents the minimum amount necessary to capitalize the fund, Legislative Services assumes that the fund balance reaches \$500,000 in fiscal 2013 and that, therefore, the bill's prohibition on hiring staff to administer the fund does not apply. However, to the extent that the fund receives less than this amount, Legislative Services advises that – given that agency budgets have been constrained due to the State's fiscal difficulties – DOD's administration of the fund may result in a redirection of resources from the department's other duties.

Although MHA (rather than DOD) is the lead agency for service delivery to individuals with TBI, DOD staffs the State Traumatic Brain Injury Advisory Board and advises that the department is familiar with needs and services related to TBI. However, DOD advises that it is unable to absorb the costs of administering the fund once the fund is capitalized and that one contractual employee is needed on at least a part-time (50%) basis to administer the fund.

Given that thousands of individuals could be eligible for services under the bill, Legislative Services concurs that additional staff is needed to administer the fund. However, because the bill's requirements are permanent (rather than temporary), Legislative Services advises that one regular (rather than contractual) employee is needed on at least a part-time (50%) basis to administer the fund. Because the bill does not specifically allow the fund to cover administrative costs, this position is assumed to be general-funded. Accordingly, general fund expenditures increase by an additional \$26,574 in fiscal 2013 for DOD to hire one part-time (50%) administrator. The estimate accounts for the bill's effective date and includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

| | |
|---|-----------------|
| Position | 0.5 |
| Salary and Fringe Benefits | \$24,124 |
| One-time Start-up Costs | 2,243 |
| Ongoing Operating Expenses | <u>207</u> |
| Total FY 2013 State Expenditures | \$26,574 |

Future year expenditures for fund administration include a salary with annual increases and employee turnover as well as annual increases in ongoing operating expenses.

Additional Information

Prior Introductions: None.

Cross File: HB 194 (Delegate McConkey, *et al.*) - Health and Government Operations.

Information Source(s): State Traumatic Brain Injury Advisory Board, Department of Disabilities, Department of Health and Mental Hygiene, Department of Legislative Services

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