

Department of Legislative Services
Maryland General Assembly
2012 Session

FISCAL AND POLICY NOTE

House Bill 659

(Chair, Economic Matters Committee)(By Request -
Departmental - Labor, Licensing and Regulation)

Economic Matters

Architects, Landscape Architects, Professional Engineers, and Professional Land Surveyors - Firm Permits

This departmental bill establishes a permitting framework for professional engineering firms and requires, beginning on October 1, 2014, a corporation, partnership, or limited liability company (LLC) to hold a permit issued by the State Board for Professional Engineers before the firm may operate a business through which engineering is practiced. The bill also establishes standardized firm permitting enforcement authority for the State Board of Architects, State Board of Examiners of Landscape Architects, State Board for Professional Engineers, and the State Board for Professional Land Surveyors (collectively known as design boards). The bill also requires firms that provide these design services to appoint an appropriately licensed design professional who will be responsible for matters related to the practice of that particular discipline within the firm.

Fiscal Summary

State Effect: Special fund expenditures for the Department of Labor, Licensing, and Regulation (DLLR) increase by \$23,800 in FY 2013 to implement an electronic permitting system for professional engineering firms, and for costs associated with printing, reproduction, banking fees, postage, and other processing costs. Out-year expenditures reflect inflation, annualization, and the elimination of one-time costs. Special fund revenues for the Design Boards' Fund increase by \$50,000 in FY 2015 from initial permitting fees and by \$50,000 in FY 2016 and biennially thereafter from firm permit renewal fees for professional engineering firms. The affected boards can implement the bill with existing staff. The fines authorized by the bill are not expected to materially affect general fund revenues.

(in dollars)	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
SF Revenue	\$0	\$0	\$50,000	\$50,000	-
SF Expenditure	\$23,800	\$5,100	\$5,100	\$5,200	\$5,200
Net Effect	(\$23,800)	(\$5,100)	\$44,900	\$44,800	(\$5,200)

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

Local Effect: None.

Small Business Effect: DLLR advises that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment.

Analysis

Bill Summary:

State Board for Professional Engineers – Firm Permitting and Enforcement Authority

Beginning on October 1, 2014, a corporation, partnership, or LLC must hold a permit issued by the State Board for Professional Engineers before the firm may operate a business through which engineering is practiced, except for specified services relating to providing engineering services for itself or affiliated firms. A corporation, partnership, or LLC must submit specified forms, application fees, and additional information to the board and designate as least one person “in responsible charge,” as discussed below. The board must issue a permit to each applicant who meets the bill’s requirements and pays the permitting fee set by the board.

The permit authorizes the holder to operate a business through which a professional engineer or an individual authorized to practice professional engineering practices or offers to practice engineering, and to represent to the public that the business provides or offers to provide professional engineering services. The permit authorizes the holder to provide a service that constitutes the practice of engineering only if the service is performed by an individual who is licensed or otherwise authorized to practice engineering.

A permit expires on the first June 30 that comes after the effective date of the permit in an even-numbered year. Subject to notification requirements about the expiration of the permit, the permit holder may renew the permit periodically for an additional two-year term if the holder is otherwise entitled to a permit, pays a permit fee set by the board, and submits a renewal application containing specified information to the board.

Standardized Firm Permit Enforcement Authority

Each of the specified design boards is authorized, subject to hearing and notification provisions, to deny a permit to any applicant, reprimand a permit holder, or suspend or revoke a permit (1) for any specified grounds; (2) if the applicant or permit holder fraudulently or deceptively uses, obtains, or attempts to obtain a permit; (3) if the applicant or permit holder fails to meet or continue to meet specified qualifications; (4) if the applicant or permit holder has a partner, officer, shareholder, member, or manager whose license has been suspended or revoked by the board.

Each board may impose a penalty of up to \$5,000 for each violation instead of or in addition to reprimanding the permit holder or suspending or revoking a permit. Each board must determine the penalty based on the seriousness and harm caused by the violation, the good faith of the permit holder, and any history of previous violations by the permit holder. Penalties paid to each board are paid into the general fund of the State. A permit remains in effect for the duration of an investigation and associated disciplinary process by each board, but it is effective only for the purpose of retaining the jurisdiction of the board.

A corporation, LLC, or partnership whose permit has been suspended or revoked by the specified design boards may not offer or provide the services authorized by the permit until the suspension is lifted or the permit is reinstated. Each board may reinstate a firm permit under specified conditions. A permit holder with a reinstated permit must comply with all applicable requirements for holding an original permit.

For architects, landscape architects, and professional engineers, except for a licensee who operates a business as a sole practitioner, a person may not operate a business through which the relevant design service is offered unless the business is a corporation, partnership, or LLC and holds a permit from the appropriate design board.

A corporation, partnership, or LLC may provide engineering, land surveying, or property line surveying services for itself or an affiliated corporation, partnership, or LLC without a permit issued by the board.

Appointment of Person in Responsible Charge

To qualify for firm permits for landscape architects, land surveyors, and professional engineers, a corporation, partnership, or LLC must appoint at least one person in responsible charge of the relevant services performed through the firm. The firms must include information relating to the person in responsible charge in a permit application and renewal. The firms must also notify the board when specified information relating to

the person in responsible charge changes. Statute related to licensure and permitting of architects already includes similar provisions.

Current Law/Background:

The Design Boards

The five design boards include the State Board of Architects, State Board of Examiners of Landscape Architects, State Board for Professional Engineers, State Board for Professional Land Surveyors, and State Board of Certified Interior Designers. The State Board of Architects, State Board of Examiners of Landscape Architects, and the State Board for Professional Land Surveyors are each authorized to issue firm permits. DLLR advises that the State Board of Certified Interior Designers was not included in this bill because, unlike the other four design boards, they do not license individuals.

Chapter 227 of 2003 established the State Occupational and Professional Licensing Design Boards' Fund as a special, nonlapsing fund in DLLR. One of the major goals of this Act was to cluster the design boards, since they regulate similar types of professions, in order to equalize the licensing fees among the design boards. Through this clustering approach, the Act required the design boards to work more cooperatively together through a Joint Chairs Committee. 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. Recent sunset reviews of all five design boards conducted by the Department of Legislative Services have confirmed that the design boards' special fund has been operating as intended, allowing the boards to equalize and stabilize fees among the five professions.

State Board for Professional Engineers

The board issues new or original professional engineer licenses, renewal licenses, and engineering-in-training certificates. Professional engineering licenses in the State have a two-year term and are not discipline specific. There is only one designation: professional engineer. However, candidates are examined in the disciplines in which their education and/or experience were gained (*e.g.*, chemical, civil, environmental, or industrial engineering). To qualify for a professional engineer license, an applicant must be of good character and reputation and meet specific education, experience, and examination requirements. The general process for obtaining a professional engineer license in the State varies according to whether the individual is seeking an original, reciprocal, or renewal license. The board currently issues licenses to over

17,000 licensees, but it does not have the authority to issue firm permits to companies that offer or provide engineering services.

State Fiscal Effect: Special fund expenditures for DLLR increase by \$23,750 in fiscal 2013 for the department to implement an electronic permitting system for professional engineering firms and for costs associated with printing, reproduction, banking fees, postage, and other processing costs. These expenditures are assumed to be made from the Design Boards' Fund. Out-year special fund expenditures reflect inflation, annualization, and the elimination of one-time costs.

DLLR anticipates approximately 500 professional engineering firms will ultimately apply for permits, and anticipates that the permitting fee will be set by the board at \$100, which is the same level as the permit fee for the other design boards which charge one. Professional engineering firms will need a permit to operate in the State by October 1, 2014. Therefore, special fund revenues increase by \$50,000 in fiscal 2015 from all 500 professional engineering firms receiving initial permits. Each firm must also renew an initial permit by the first June 30 in an even-numbered year. Thus, special fund revenue increases by \$50,000 in fiscal 2016 and biennially thereafter as all originally permitted firms renew their permits before June 30, 2016. Additional general fund revenues from fines authorized by the bill are expected to be minimal. The State Board of Architects, State Board of Examiners of Landscape Architects, State Board for Professional Engineers, and State Board for Professional Land Surveyors do not need additional staff to implement the bill.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Labor, Licensing, and Regulation; Department of Legislative Services

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ncs/mcr

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Architects, Landscape Architects, Professional Engineers, and Professional Land Surveyors – Firm Permits

BILL NUMBER: HB 659

PREPARED BY: Department of Labor, Licensing, and Regulation

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

All engineering business would be impacted by the fee set by the Board for Professional Engineers. Beyond the cost of the firm permit for engineers it is not expected that the new permit requirement or the changes proposed to the other referenced design board statutes would have any notable economic impact on firms currently providing engineering, architectural, landscape architectural, or land surveying services in the State.