

Department of Legislative Services
 Maryland General Assembly
 2013 Session

FISCAL AND POLICY NOTE
Revised

House Bill 61 (Delegate McConkey, *et al.*)
 Health and Government Operations

Rules

State Brain Injury Trust Fund

This bill establishes the State Brain Injury Trust Fund (SBITF) as a special, nonlapsing fund for the purpose of assisting in the provision of specified services to eligible individuals who have sustained brain injuries. The Secretary of Health and Mental Hygiene (or the Secretary’s designee) is required to administer the fund. The bill expresses legislative intent that implementation of administration of the fund begin on or after July 1, 2014.

Fiscal Summary

State Effect: Neither revenues nor expenditures are affected in FY 2014. Because the bill establishes SBITF but does not establish any means (beyond general funds) of capitalizing the fund, general fund expenditures increase beginning in FY 2015 by an estimated \$500,000 annually to capitalize the fund. Correspondingly, special fund revenues and expenditures increase by \$500,000 annually beginning in FY 2015 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 \$77,600 (for a total of \$577,600) beginning in FY 2015 for the Department of Health and Mental Hygiene (DHMH) to hire one full-time administrator to assist with fund administration. Future year expenditures reflect inflation for the administrative costs.

| (in dollars) | FY 2014 | FY 2015 | FY 2016 | FY 2017 | FY 2018 |
|----------------|---------|-------------|-------------|-------------|-------------|
| SF Revenue | \$0 | \$500,000 | \$500,000 | \$500,000 | \$500,000 |
| GF Expenditure | \$0 | \$577,600 | \$576,300 | \$579,800 | \$583,500 |
| SF Expenditure | \$0 | \$500,000 | \$500,000 | \$500,000 | \$500,000 |
| Net Effect | \$0 | (\$577,600) | (\$576,300) | (\$579,800) | (\$583,500) |

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

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: The fund may be used to support prevention, education, and awareness programs; medical services; housing and residential services; durable medical equipment; assistive technology assessment and equipment; services to assist in the return to driving; evaluation and training related to the brain injury; educational needs; and services related to rehabilitation, neurobehavioral health, nursing home transition, community reentry, and transportation.

To be eligible for assistance from the fund, an individual must (1) have been a U.S. citizen and State resident at the time of the injury; (2) have a documented brain injury; (3) have income no greater than 300% of the federal poverty level; and (4) have exhausted all other health, rehabilitation, and disability benefit 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 services from the fund costing more than the annual or lifetime amounts established by policies and procedures adopted by the Secretary of Health and Mental Hygiene (or the Secretary's designee). DHMH may contract with an outside entity to develop the rules and procedures relating to the administration of the fund.

The fund consists of money appropriated in the State budget to the fund, investment earnings of the fund, and any other money from any other source accepted for the benefit of the fund. (The fund is exempt from having its interest earnings accrue to the general fund.) The State Treasurer is required to invest the money of the fund in the same manner as other State money may be invested.

The Secretary of Health and Mental Hygiene (or the Secretary's designee) must report annually to the Governor and the General Assembly on the number of individuals served and the services provided in the preceding fiscal year using the fund.

In addition, DHMH must report, by January 1, 2014, to the General Assembly on (1) the expected implementation date of the fund; (2) the status of adoption of any rules or procedures relating to the fund's administration; and (3) any recommendations for legislation needed to allow for more efficient administration of the fund.

Current Law/Background:

Provision of Services Related to Brain Injury

The Mental Hygiene Administration (MHA) is designated in regulation as the State's lead agency for service delivery to individuals with traumatic brain injury (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.

On an annual basis, according to the State Traumatic Brain Injury Advisory Board, more than 40,000 State residents sustain a life-altering TBI requiring a hospital or emergency room visit and more than 7,000 are hospitalized for TBI.

Recommendations of the State Traumatic Brain Injury Advisory Board

Chapter 306 of 2005 (SB 395) codified the establishment of the State Traumatic Brain Injury Advisory Board, which had been in existence since 1999 and is staffed by DHMH and the Department of Disabilities. 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. In addition, 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 a 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.

State Fiscal Effect: The bill establishes SBITF 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 minimal 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 2015 to reflect grants awarded. Actual grant funding will depend on the amount of any State budget appropriation to the fund or any other monies received from another source for the fund.

DHMH advises that it is unable to absorb the costs of administering the fund. Given that thousands of individuals could be eligible for services, the Department of Legislative Services concurs that one full-time position is needed to implement the bill. 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 \$77,567 in fiscal 2015 for DHMH to hire one full-time administrator. The estimate accounts for the bill's July 1, 2014 implementation date and includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

| | |
|--|-----------------|
| Administrator | 1 |
| Salary and Fringe Benefits | \$70,149 |
| One-time Start-up Costs | 4,615 |
| Ongoing Operating Expenses | <u>2,803</u> |
| Total FY 2015 Administrative Expenditures | \$77,567 |

Future year expenditures for fund administration reflect annual increases and employee turnover as well as annual increases in ongoing operating expenses.

Additional Information

Prior Introductions: SB 577 of 2012, a similar bill, passed the Senate but – along with its cross file, HB 194 – received an unfavorable report from the House Health and Government Operations Committee.

Cross File: Although designated as a cross file, SB 632 (Senator King, *et al.* - Finance and Budget and Taxation) is not identical.

Information Source(s): Maryland Institute for Emergency Medical Services Systems, Department of Health and Mental Hygiene, Department of Legislative Services

Fiscal Note History: First Reader - January 18, 2013
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