

Department of Legislative Services
Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE

House Bill 511

(Delegate Davis)(By Request - Department of Legislative Services)

Economic Matters

Education, Health, and Environmental Affairs

State Board of Foresters - Sunset Extension and Program Evaluation

This bill extends the termination date for the State Board of Foresters by 10 years to July 1, 2025, and requires a preliminary evaluation of the board by December 15, 2022.

The bill takes effect July 1, 2014.

Fiscal Summary

State Effect: General fund revenues and expenditures for the State Board of Foresters are maintained beyond FY 2015. The Governor’s proposed FY 2015 budget includes \$2,700 for board operations.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law/Background: The General Assembly established the State Board of Foresters in 1972 to oversee the practices and licensing of foresters in the State. The board licenses and regulates individuals who practice forestry in the State, defined as “the application, for compensation, of scientific techniques to the planting, conservation, protection, and management of trees and related resources for their continuing use, whether found in large numbers and areas commonly known as forests, woodlands, and woodlots or in small groupings and individual trees in suburban and urban settings.” Thus, forestry differs from the activities of an arborist or tree expert, who generally focuses on the health and physical condition of individual trees and not the whole forest.

Approximately 206 foresters are currently licensed by the board to practice forestry in Maryland, a number that has remained stable since 1996.

Maryland Program Evaluation Act

The State Board of Foresters 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 board, which is scheduled to terminate July 1, 2015. The sunset review process traditionally begins with a preliminary evaluation conducted by the Department of Legislative Services (DLS) on behalf of the Legislative Policy Committee (LPC), although a few entities are subject to direct full evaluation. 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.

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

Preliminary Evaluation Findings and Recommendations

The board underwent a preliminary evaluation as part of sunset review in 2012, which recommended that the board be waived from further evaluation and that the board’s termination date be extended by 10 years to July 1, 2025. The bill implements the DLS recommendations as adopted by LPC.

The report further recommended that the General Assembly consider prior recommendations to terminate the board as well as the report’s conclusion that the board may not be necessary to protect public health and safety, when deciding whether to reauthorize the board for 10 more years. In a previous preliminary evaluation in 2001, DLS also recommended that the board be waived from further evaluation and have its termination date extended. However, full evaluations conducted in 1982 and 1992 recommended that the board be terminated because, the evaluations concluded, the practice of forestry does not pose a threat to public health, safety, and welfare and thus does not need to be regulated. Those recommendations were not adopted by the General Assembly.

The 2012 preliminary evaluation noted four conditions that support termination of the board: (1) the availability of a national professional certificate with similar or more rigorous qualification standards; (2) the low number of consumer complaints filed against foresters; (3) the board’s difficulty in securing a quorum for its meetings due to multiple vacancies; and (4) the fact that few states license foresters.

Board Vacancies Update

The problem of multiple vacancies on the seven-member board was highlighted in the preliminary evaluation. The evaluation recommended that the Department of Labor, Licensing, and Regulation (DLLR) either work with the Governor's Appointment Office to resolve the persistent vacancies on the board or introduce departmental legislation to alter the board's membership to enable it to maintain a quorum at meetings. At the time of the evaluation there were three vacancies on the board: one licensed forester member and both consumer members. DLLR advises that one consumer member position was filled in 2013 and that several other foresters are nominated for the Governor's Appointments Office to consider.

Legislative Action on Preliminary Evaluation in 2013

During the 2013 session, the Senate passed Senate Bill 236, which would have continued the board. However, the House Economic Matters Committee sought further input from stakeholders to determine which option – termination, extension, or alternative means of regulation – would best serve the public interest. The committee ultimately gave House Bill 210/Senate Bill 236 unfavorable committee reports for the purpose of giving stakeholders time to explore options and propose a recommendation for the 2014 legislative session.

Representatives from DLLR and the Department of Natural Resources met several times over the course of the 2013 legislative interim to discuss the board's ongoing challenges and impending termination. The stakeholders met with DLS in early September to discuss the group's recommendation that the State should maintain the board in its current form and continue to regulate the forester industry by issuing licenses through DLLR. The stakeholders raised concerns about the proposed alternative regulatory structure and provided additional information about consumer relations and quorum issues. The stakeholders also concluded that the State's regulatory model should not be changed to require registration based on an individual obtaining a national credential.

Additional Information

Prior Introductions: SB 236 of 2013 passed the Senate but received an unfavorable report from the House Economic Matters Committee. Its cross file, HB 210, also received an unfavorable report from the committee.

Cross File: None.

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

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Analysis by: Stephen M. Ross

Direct Inquiries to:
(410) 946-5510
(301) 970-5510