

Department of Legislative Services
Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE

Senate Bill 45

(Chair, Education, Health, and Environmental Affairs
Committee)(By Request - Departmental - Labor,
Licensing and Regulation)

Education, Health, and Environmental Affairs

Economic Matters

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

This departmental bill establishes standardized firm permitting enforcement authority for the State Board of Architects, State Board of Examiners of Landscape Architects, and the State Board for Professional Land Surveyors (collectively, three of the five “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: 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.

Local Effect: None.

Small Business Effect: The Department of Labor, Licensing, and Regulation (DLLR) advises that this bill has minimal or no impact on small business (attached). The Department of Legislative Services concurs with this assessment.

Analysis

Bill Summary:

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 if (1) the applicant or permit holder fraudulently or deceptively obtains or attempts to obtain a permit or (2) the permit holder fraudulently or deceptively uses a permit.

Each board may also impose a penalty of up to \$5,000 for each (1) violation for which a denial, reprimand, suspension, or revocation was imposed under the bill and (2) failure to meet or continue to meet specified qualifications or requirements. Each board must determine the penalty based on the seriousness and harm caused by the violation, the good faith of the permit holder or the applicant, and any history of previous violations by the permit holder. Penalties imposed by 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 over the permit holder.

A corporation, limited liability company (LLC), or partnership whose permit has been suspended or revoked by a specified design board 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.

The bill standardizes across the specified boards that a corporation, partnership, or LLC may provide services authorized by the permit for itself or an affiliated corporation, partnership, or LLC without a permit issued by the board.

The bill further standardizes the requirement across the specified boards that, 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.

Appointment of Person in Responsible Charge

The bill also standardizes requirements for licensed firms to appoint a person in responsible charge. To qualify for firm permits for landscape architects and land surveyors, 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 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 three design boards affected by the bill are already each authorized to issue firm permits. However, the boards do not have the authority to enforce compliance with permit provisions.

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 Chapter 227 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.

Additional Comments: This bill includes only those design boards that already have the statutory authority to issue firm permits but still lack enforcement authority. Chapter 613 of 2013 established a permitting framework for the State Board for Professional Engineers, including enforcement authority similar to that proposed in this bill.

Additional Information

Prior Introductions: SB 179 of 2013, as amended by the Senate Education, Health, and Environmental Affairs Committee, passed the Senate but received an unfavorable report from the House Economic Matters Committee. A similar bill, HB 659 of 2012, included professional engineers and received an unfavorable report from the House Economic Matters Committee.

Cross File: None.

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

Fiscal Note History: First Reader - January 14, 2014
ns/mcr

Analysis by: Stephen M. Ross

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

ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

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

BILL NUMBER: SB 45

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