

Department of Legislative Services
 Maryland General Assembly
 2015 Session

FISCAL AND POLICY NOTE

Senate Bill 903 (Senator Rosapepe)
 Education, Health, and Environmental Affairs

State Board of Tree Experts - Establishment

This bill establishes the State Board of Tree Experts in the Department of Labor, Licensing, and Regulation (DLLR) and transfers the licensing and regulation of licensed tree experts (LTEs) from the Department of Natural Resources (DNR) to the board. The bill also subjects the board to termination and periodic evaluation under the Maryland Program Evaluation Act.

Fiscal Summary

State Effect: General fund expenditures for DLLR increase by \$130,400 in FY 2016 for regular and contractual staff and exam development expenses. Future year general fund expenditures reflect annualization and the elimination of the contractual position after FY 2018. General fund revenues increase by \$130,400 in FY 2016 from fees established by the board in regulation. Future year general fund revenues reflect fees as required by the bill beginning October 1, 2016. Special fund revenues and expenditures for DNR decrease beginning in FY 2016 from foregone licensing and examination fees. Out-year special fund revenues reflect a change to annual license renewal as required by current law.

(in dollars)	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
GF Revenue	\$130,400	\$16,000	\$16,500	\$17,000	\$17,500
SF Revenue	(\$19,300)	(\$16,000)	(\$16,500)	(\$17,000)	(\$17,500)
GF Expenditure	\$130,400	\$103,300	\$108,000	\$76,200	\$79,700
SF Expenditure	(\$19,300)	(\$16,000)	(\$16,500)	(\$17,000)	(\$17,500)
Net Effect	\$0	(\$87,300)	(\$91,500)	(\$59,200)	(\$62,200)

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

Local Effect: None.

Small Business Effect: Meaningful.

Analysis

Bill Summary: The laws pertaining to the licensing and regulation of LTEs in the Natural Resources Article are repealed. The State Board of Tree Experts is established in DLLR to regulate persons who practice as tree experts in the State. The board is structured in the same manner and has the general powers of other State boards that regulate a particular occupation or profession. The general education, experience, and insurance requirements for licensure as an LTE are maintained, as are enforcement provisions.

Before October 1, 2016, the board may set application and renewal fees by regulation, with no limit specified, except that the amount may not be more than the costs of processing the application or renewal. Beginning October 1, 2016, initial application fees must be \$30, and renewal fees must be \$10; licenses issued by the board must be renewed annually (as opposed to every two years under current law).

The Department of Legislative Services (DLS) must conduct a preliminary review of the board by 2022 pursuant to the Maryland Program Evaluation Act. Subject to the reestablishment provisions of the act, the bill's provisions related to board and all regulations adopted by the board terminate after July 1, 2025.

Current Law: A person may not engage in the work or business of a tree expert or represent themselves to the public as a tree expert without having received a license from DNR. A "tree expert" is generally a person who represents that the person is skilled in the science of tree care or removal and engages in the business or work of the treatment, care, or removal of trees over 20 feet tall for compensation. An employee under the supervision of a licensed tree expert is not required to have a license in the name of the employee.

To obtain a license, an individual must:

- be 18 or older;
- (1) have two years of relevant college education plus a minimum of one year of experience with a licensed tree expert in Maryland or an acceptable tree expert company in another state or (2) have three years of continuous experience with a licensed tree expert in Maryland or with an acceptable tree expert company in another state immediately preceding the date of application;
- pass a DNR examination; and
- pay an application fee.

Each licensee must carry and show proof of liability and property damage insurance.

Pursuant to Chapter 20 of 2011 and DNR regulations, licenses are currently renewed every two years at the end of the calendar year, but after September 2016, when Chapter 20

terminates, renewals will be required annually. A license application fee is \$30 and the renewal fee is \$25 through September 2016, after which the annual renewal fee will be \$10. License and exam fees accrue to the Forest Park and Reserve Fund.

Background: The Maryland Tree Expert Law, adopted in 1945, addresses tree care work done for compensation on private or public property in the State and protects consumers by licensing qualified and insured tree care companies and individuals. There are approximately 1,300 licensed tree experts in the State.

State Fiscal Effect: DLLR does not have sufficient resources to implement the bill. The bill does not establish a special fund, therefore, general fund expenditures increase by \$130,395 in fiscal 2016, which accounts for the bill's October 1, 2015 effective date. This estimate reflects the cost of hiring one regular and one contractual staff to carry out the administrative requirements of licensing and otherwise regulating LTEs, including the development and management of a professional development curriculum. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses. This estimate also includes contractual costs for DLLR to develop a licensing exam, establish a licensing system, and create a website.

Regular Position	1
Contractual Position	1
Salaries and Fringe Benefits	\$75,327
Contractual Services	45,000
Other Operating Expenses	<u>10,068</u>
Total FY 2016 General Fund Expenditures	\$130,395

Future year expenditures reflect full salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses and the elimination of the contractual position after fiscal 2018.

This estimate does not include any health insurance costs that could be incurred for the specified contractual employee under the State's implementation of the federal Patient Protection and Affordable Care Act.

The board is authorized to set application and renewal fees in regulation before October 1, 2016. The fees set in regulation may only be up to the costs of processing the application or renewal. Assuming all costs associated with the board are necessary costs to process an application or renewal, the board will set application and renewal fees to cover its costs in fiscal 2016. Accordingly, general fund revenues increase by approximately \$130,395 in fiscal 2016. As there are 1,300 licensees, the fee for each licensee is estimated to be \$93, based on the assumption that all tree experts currently licensed by DNR are treated as new licensees by DLLR, not as licensee renewals.

Beginning October 1, 2016, application and annual renewal fees are set by statute at \$30 and \$10, respectively. General fund revenues increase by \$16,000 in fiscal 2017, escalating to \$17,500 in fiscal 2020, which reflects moderate growth in new and renewal licenses.

Assuming DLLR's current practice of contracting with an exam vendor for the administration of licensing exams, examination fees are likely paid directly to the vendor and do not, therefore, increase general fund revenues.

DNR

Special fund revenues for DNR decrease by \$19,250 in fiscal 2016 and by \$16,000 in fiscal 2017, escalating to \$17,500 by fiscal 2020, which reflects a change to annual license renewals at a fee of \$10, effective October 1, 2016, pursuant to Chapter 20 of 2011. Special fund expenditures decrease correspondingly. No DNR staff are eliminated, but special fund expenditures for other DNR services decrease due to less revenue being available.

This estimate does not reflect any potential savings due to the transfer of the requirement from DNR to DLLR of establishing a professional development curriculum prior to September 1, 2017, pursuant to Chapter 620 of 2013. The fiscal and policy note for that legislation indicated that special fund expenditures for DNR increase by \$44,700 in fiscal 2016 and by more than \$83,900 annually thereafter to hire a supervisor to develop and manage the professional development curriculum.

DLS

DLS can conduct the preliminary review of the board pursuant to the Maryland Program Evaluation Act with existing resources.

Small Business Effect: In fiscal 2016, LTEs, which may be self-employed or employed by small businesses, are required to pay an additional, unanticipated fee. The bill also does not specify that individuals licensed by DNR as of October 1, 2015, retain their licenses until being issued a license from DLLR under the bill. These individuals may become unlicensed for a period of time, as DLLR must establish fees for licensure by regulation but is not authorized to do so until October 1, 2015. This combination of increased fees plus the potential for lack of licensure continuity has a meaningful, negative impact on small businesses.

Additional Comments: DLS notes that, in addition to the potential for the lack of licensure continuity discussed above, the bill does not provide for the disposition of

licensee information by DNR, and whether and to what extent that information may be transferred to DLLR.

Additional Information

Prior Introductions: None.

Cross File: Although designated as a cross file, HB 1145 (Delegate Frush, *et al.* - Rules and Executive Nominations) is not identical.

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

Fiscal Note History: First Reader - March 16, 2015
mar/mcr

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