

Department of Legislative Services
 Maryland General Assembly
 2015 Session

FISCAL AND POLICY NOTE
 Revised

House Bill 5 (Delegate O'Donnell, *et al.*)

Health and Government Operations

Finance

Department of Health and Mental Hygiene - Newborn Screening Program Fund -
 Establishment

This bill establishes the Newborn Screening Program Fund, which is administered by the Secretary of Health and Mental Hygiene, to cover the administrative, laboratory, and follow-up costs associated with performing newborn screening tests. The fund is primarily funded through fees collected from the Newborn Screening Program.

The bill takes effect July 1, 2015.

Fiscal Summary

State Effect: No impact on total State revenues or expenditures. However, general fund revenues decrease by \$6.8 million in fiscal 2016, and special fund revenues increase by the same amount, assuming implementation of the proposed 2015 fee increase. General fund expenditures decrease by \$5.4 million in FY 2016, and special fund expenditures increase by the same amount. This estimate reflects the new special fund not having sufficient revenues in FY 2016 to cover all costs in that year and accounts for the 32.8 full-time regular employees and 1 full-time contractual employee working for the Department of Health and Mental Hygiene's (DHMH) Newborn Screening Program. Out-years reflect inflation, assume a steady birth rate, and use of fund balance from FY 2016 to cover ongoing costs, as discussed below.

(in dollars)	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
GF Revenue	(\$6,797,300)	(\$6,797,300)	(\$6,797,300)	(\$6,797,300)	(\$6,797,300)
SF Revenue	\$6,797,300	\$6,797,300	\$6,797,300	\$6,797,300	\$6,797,300
GF Expenditure	(\$5,394,100)	(\$7,097,100)	(\$7,010,500)	(\$7,172,100)	(\$7,430,400)
SF Expenditure	\$5,394,100	\$7,097,100	\$7,010,500	\$7,172,100	\$7,430,400
Net Effect	\$0	\$0	\$0	\$0	\$0

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 is a special, nonlapsing fund that is not subject to the general requirement for reversion in the State Finance and Procurement Article. The Comptroller must collect and distribute the fees to the fund. The fund is funded through fees from the Newborn Screening Program, money appropriated in the State budget, accrued interest, and any other money from another source accepted for the benefit of the fund. The State Treasurer must invest the fund money in the same manner as other State money.

Current Law/Background: DHMH's Newborn Screening Program is a statewide system for screening all newborn infants in Maryland for certain hereditary and congenital disorders associated with severe problems of health or development (except when the parent or guardian of the newborn objects).

The DHMH Public Health Laboratory is the only laboratory in Maryland authorized to perform the screening tests. The system for newborn screening includes laboratory testing, reporting of test results, and follow-up activities to facilitate the rapid identification and treatment of an affected child. The laboratory is required to screen for 53 first-tier metabolic hereditary disorders on all screening specimens collected from a newborn infant. These disorders are all listed in the Code of Maryland Regulations (10.10.13.12). Second-tier tests can only be performed when requested by an individual authorized to request a medical laboratory test.

The State Advisory Council on Hereditary and Congenital Disorders gathers and disseminates information on the treatment of hereditary and congenital disorders in Maryland. The advisory council (1) continually evaluates the need for, and efficiency of, relevant State programs and (2) institutes and supervises education programs and counseling on hereditary and congenital disorders.

The Laboratories Administration has regulatory authority under § 13-111 of the Health-General Article to establish fees for newborn screening that do not exceed the administrative, laboratory, and follow-up costs associated with newborn screening testing in the State.

In 2010, the Secretary of the U.S. Department of Health and Human Services recommended that newborn screening programs include screening for Severe Combined Immunodeficiency Disease (SCID). Subsequently, the State Advisory Council on

Hereditary and Congenital Disorders recommended that SCID be added to Maryland's Newborn Screening Program in June 2011. Although the SCID screening program has not *yet* been funded or implemented in the State, in 2015 DHMH proposed regulations that would increase the screening fee to cover the cost of implementing SCID testing. Moreover, the Governor's proposed budget anticipates implementation of SCID screening in fiscal 2016, with sufficient general funds to cover higher costs to do so.

By statute, fees are supposed to be sufficient to cover costs of the program, and they have. However, fees currently accrue to the general fund, and the program receives a general fund appropriation to cover its costs. In fiscal 2011 and 2012, fees raised a little more than \$4.7 million in general fund revenues annually while the program served more than 67,000 newborns annually. During this period, the fee was set at \$70 per newborn. Then, beginning in fiscal 2013, the fee was raised (by regulation) to \$100 per infant, and the birth rate dropped slightly.

The Newborn Screening Program does not generally realize 100% collection success for hospital invoices. In fiscal 2013, the program billed \$6,697,500 for 66,975 infants and recovered \$6.3 million, or approximately 94%. In fiscal 2014, the program billed hospitals \$6,791,100 for testing for 67,911 infants and recovered \$6.6 million, or approximately 97% of the amount billed. Hospitals that are billed and fail to pay within 90 days are referred to the Central Collection Unit (CCU). Amounts later recovered by CCU are deposited into the general fund. Under the bill, recovered fees will instead be deposited into the special fund. Although these invoices may ultimately be paid, the amount may not be realized in the fiscal year for which it is billed, thus reducing annual revenues.

State Fiscal Effect:

Although the bill has no net impact on total State funding, the newly created special fund receives revenue that currently accrues to the general fund; it likewise incurs costs that are currently covered by general funds. However, special fund expenditures are constrained by the amount of special fund revenues available. Special fund revenues and any fund balance that accrues are sensitive to the number of tests billed and the collection rate, as demonstrated in **Exhibit 1**. Further, expenditures in fiscal 2016 are higher than normal due to significant one-time equipment expenditures and a recent increase in fixed costs for the Public Health Lab, which houses the Newborn Screening Division. Thus, this analysis assumes that general fund expenditures, in fiscal 2016 only, are likely necessary to help cover the full costs of running the program.

Exhibit 1
Projected Fund Balance of the Newborn Screening Fund
Under Best-case and Conservative Scenarios
Fiscal 2016-2020

	<u>FY 2016</u>	<u>FY 2017</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
Expenditures	\$7,094,069	\$7,097,106	\$7,010,506	\$7,172,082	\$7,430,391

Billing for 68,000 Infants with 100% Collection Rate

Fee Revenues	7,208,000	7,208,000	7,208,000	7,208,000	7,208,000
Annual Surplus/(Deficit)	113,931	110,894	197,494	35,918	(222,391)
Ending Fund Balance	\$113,931	\$224,825	\$422,319	\$458,237	\$235,846

Billing for 67,500 Infants with 95% Collection Rate

Fee Revenues	6,797,250	6,797,250	6,797,250	6,797,250	6,797,250
Annual Surplus/(Deficit)	(296,819)	(299,856)	(213,256)	(374,832)	(633,141)
Ending Fund Balance	(\$296,819)	(\$596,675)	(\$809,931)	(\$1,184,763)	(\$1,817,904)

Billing for 67,500 Infants with 95% Collection Rate
and FY 2016 General Fund Expenditures Defraying Some Costs

General Fund Expenditures	1,700,000	0	0	0	0
Special Fund Expenditures	5,394,069	7,097,106	7,010,506	7,172,082	7,430,391
Fee Revenues	6,797,250	6,797,250	6,797,250	6,797,250	6,797,250
Annual Surplus/(Deficit)	1,403,181	(299,856)	(213,256)	(374,832)	(633,141)
Ending Fund Balance	\$1,403,181	\$1,103,325	\$890,069	\$515,237	(\$117,904)

Note: Total expenditures are unchanged under all scenarios and assume funding is maintained at the level proposed in the Governor's fiscal 2016 operating budget, with standard increases due to inflation and elimination of one-time costs. The third scenario assumes the need for fiscal 2016 general expenditures to defray some costs because special fund revenues are not likely to cover all costs attributable to the program, but it maintains the same overall expenditures.

Source: Department of Legislative Services

Revenue Impact

Revenues that would otherwise accrue to the general fund instead accrue to the new special fund beginning in fiscal 2016. The bill does not change the amount of revenues due to the Newborn Screening Program. As mentioned above, in fiscal 2015, DHMH proposed regulations that would establish a \$6 fee increase to offset the costs of implementing SCID screening. Although the regulations have not been finalized, this analysis assumes the fee increase will be in place by fiscal 2016.

The Laboratories Administration anticipates billing for approximately 68,000 tests and receipt of payment for all of them at the higher fee of \$106. Under this best-case scenario, general fund revenues decrease, and special fund revenues increase, by as much as \$7,208,000 annually beginning in fiscal 2016. This accounts for the bill's July 1, 2015 effective date and assumes that the proposed fee increase is implemented by fiscal 2016 and that the \$106 per newborn fee remains unchanged in future years. Moreover, this estimate assumes the current birth rate of approximately 68,000 newborns annually remains constant in future years. This estimate does not account for earned interest that accrues to the special fund. Under this estimate, annual revenues would be sufficient to cover annual costs until fiscal 2020, when the Newborn Screening Program must utilize fund balances and likely increase fees within a few years.

Although it is possible that the Newborn Screening Program Fund will realize the full fee revenues discussed above, the Department of Legislative Services advises that it is prudent to use a more conservative estimate of revenues based on past collection levels. While the level of testing and fee collection has been fairly steady, there has been some fluctuation in the past few years. Additionally, as discussed above, invoices are not always paid in a timely manner, thus reducing annual revenues. It is also unclear whether Medicaid will pay the full proposed \$106 fee. Medicaid finances more than 30,000 Maryland births annually, and DHMH advises that it pays approximately 95% of the current \$100 newborn screening fee. It is unclear whether Medicaid will pay for SCID screening under the higher fee, but it is possible that almost half of the testing performed by the Newborn Screening Program will be collected at a lower rate. (Thus, some portion of the current unpaid invoices may be due to Medicaid not paying the entire \$100 fee).

As such, the Department of Legislative Services calculated a conservative revenue estimate based on billing for 67,500 tests with a 95% collection rate, resulting in general fund revenues decreasing by \$6.8 million beginning in fiscal 2016, with a corresponding increase in special fund revenues. Under this scenario, fee revenues are not sufficient to cover annual operating costs, even in fiscal 2016. The projected fund balances for both the best-case and the conservative scenarios are shown above in Exhibit 1 and illustrate the sensitivity of the revenue forecast to the number of tests billed and the collection rate.

Expenditure Impact

Total costs for fiscal 2016 remain unchanged at \$7,094,069. This estimate reflects the conversion of 32.8 full-time regular employees and 1 contractual full-time employee from general fund to special fund status. It includes their salaries, fringe benefits, contractual services, and ongoing operating expenses as provided in the Governor's proposed fiscal 2016 operating budget. This estimate includes both the costs for initial newborn screenings performed by DHMH's Laboratories Administration, follow-up care, which is performed by DHMH's Prevention and Health Promotion Administration, and administrative costs incurred by DHMH to run the Newborn Screening Program. This estimate also encompasses approximately \$1.1 million in expenditures for property management costs for the new Public Health Lab which houses the Newborn Screening Division. Further, the estimate includes significant expenditures, as provided in the Governor's proposed fiscal 2016 operating budget for equipment purchases (including a Real-time PCR System, Multichannel Beckman, blood spot puncher and an Integra Multichannel to screen for SCID, a Tandem Mass Spectrometer, and high-purity nitrogen generators) to screen for other hereditary disorders.

Full-time Regular Positions	32.8
Contractual Position	1.0
Salaries and Fringe Benefits	\$2,693,310
Contractual Services (Including Equipment)	229,957
Operating Expenses	<u>4,170,802</u>
Total FY 2016 State Expenditures Affected by Conversion	\$7,094,069

Future year expenditures reflect full salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenditures.

Under the bill, special fund expenditures are constrained by the amount of special fund revenue available. As discussed above, special fund revenues in fiscal 2016 are likely insufficient to cover costs. Thus, this estimate assumes that at least \$1,700,000 in general fund expenditures are necessary to defray some costs in fiscal 2016. As noted above, the Governor's proposed budget for fiscal 2016 already includes full funding for the program with a general fund appropriation. Accordingly, special fund expenditures increase and general fund expenditures decrease by \$5,394,069 in fiscal 2016. Future year expenditures reflect the special fund expenditures covering full program costs due to use of fund balance as shown in Exhibit 1. However, another fee increase may be necessary by fiscal 2020, unless expenditures are lower in the out-years than reflected in the exhibit.

Even so, the Department of Legislative Services notes that actual expenditures in the out-years, beginning in fiscal 2017, may be lower than estimated due to outlays in capital

for new laboratory and testing equipment in fiscal 2016. The Governor's proposed fiscal 2016 operating budget includes \$985,392 to fully fund screening for SCID and purchase other necessary equipment. Prior to the release of the Governor's proposed budget, it was unclear whether these costs would be fully funded in fiscal 2016. Thus, DHMH's original estimate assumed that this laboratory and testing equipment would have to be financed through the State Treasurer's Office. Since this equipment can now be purchased outright, actual expenditures in the out-years may be lower. This analysis accounts for at least a portion of decreased out-year expenditures (based on information provided in the agency's estimate of fiscal impact) but may not fully do so.

Fund Balance

The new special fund is unlikely to accrue a fund balance as a cushion, unless general fund expenditures continued to cover some program costs in fiscal 2016. Special fund expenditures for fiscal 2016 are estimated to be almost \$297,000 higher than special fund revenues in the DLS conservative scenario but almost \$114,000 lower than special fund revenues in the best-case scenario as shown above in Exhibit 1. Under the third scenario in Exhibit 1, \$1,700,000 in general funds are used to defray some costs in fiscal 2016 only. Even under this scenario, fee revenues are only sufficient to cover annual costs charged to the new special fund in the first year, and available fund balance from that year is used to cover ongoing costs. Also, it is likely that another fee increase is necessary by fiscal 2020.

Additional Information

Prior Introductions: HB 1542 of 2014 passed both the House and Senate with amendments, but the differences were not reconciled. SB 433 of 2014 was amended in the Senate to establish such a fund, but no further action was taken.

Cross File: None.

Information Source(s): Department of Budget and Management, Department of Health and Mental Hygiene, Comptroller's Office, Department of Legislative Services

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