

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 601

Economic Matters

(Delegate Kramer, *et al.*)

Finance

Senior Call-Check Service and Notification Program - Establishment

This bill requires the Maryland Department of Aging (MDOA) to establish and administer the Senior Call-Check Service and Notification Program, subject to specified conditions. Eligible participants must be age 65 or older and residents of the State. MDOA may contract with a private vendor or nonprofit organization to provide the senior call-check service and notification. The costs of the program are authorized to be paid from the Universal Service Trust Fund (USTF). Beginning in fiscal 2019, the program must be funded at an amount (1) that is equal to the cost that MDOA is expected to incur for the upcoming fiscal year to provide the service and administer the program and (2) that is no more than 5 cents per month for each account that pays the USTF surcharge. MDOA must adopt regulations necessary to implement the program.

The bill takes effect June 1, 2017.

Fiscal Summary

State Effect: Special fund expenditures for USTF increase by \$126,000 annually beginning in FY 2018 to fund the program in MDOA. Thus, although special fund revenues and expenditures for MDOA increase correspondingly for contractual services to implement the program, the net effect is \$126,000 in additional special fund expenditures. Given USTF's FY 2017 estimated ending fund balance of \$11.5 million, USTF revenues likely do not need to increase to fund the program. State Insurance Trust Fund (SITF) expenditures are not anticipated to be materially affected. No effect in FY 2017.

(in dollars)	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
SF Revenue	\$126,000	\$126,000	\$126,000	\$126,000	\$126,000
SF Expenditure	\$252,000	\$252,000	\$252,000	\$252,000	\$252,000
Net Effect	(\$126,000)	(\$126,000)	(\$126,000)	(\$126,000)	(\$126,000)

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

Local Effect: Local government finances and operations are not materially affected, as discussed below.

Small Business Effect: Minimal.

Analysis

Bill Summary: “Senior call-check service and notification” means a telephone call made or received each day at a regularly scheduled time by MDOA or MDOA’s designee to the residence of an eligible participant to verify that the participant is able to receive notifications and answer the telephone or place a call from the telephone. MDOA may contract with a private vendor or nonprofit organization to provide the senior call-check and notification service. “Senior call-check service and notification” includes:

- an automated or live telephone call placed by an eligible participant or received by an eligible participant at a regularly scheduled time each day;
- if the eligible participant does not answer or place the regularly scheduled call and the Secretary of Aging designs the program to require this action, one or more automated or live telephone calls to the eligible participant;
- if the eligible participant does not answer a telephone call from the service, an additional automated or live telephone call to notify a person of record whose name has been provided to MDOA; and
- a notification to the eligible participant regarding information that the Secretary of Aging has determined to be relevant.

The Maryland Tort Claims Act (MTCA) and the Local Government Tort Claims Act (LGTCA), as appropriate, apply to a State or local unit and to an employee or agency of a State or local unit that participates in the program for services the unit or person provides under the program in accordance with regulations adopted by MDOA.

A person of record and a volunteer may not be liable for reasonable acts or omissions directly arising from services the person provides under the program in accordance with regulations adopted by MDOA. “Person of record” includes a local law enforcement unit or other local government agency that chooses to participate in the program.

Current Law: There is no State requirement for a senior-call check service and notification program. USTF pays for the Maryland Relay Service and additional services and equipment for persons with disabilities. The Comptroller collects fees for this purpose

through a surcharge, determined by the Public Service Commission (PSC), on individuals' phone bills. Chapters 571 and 572 of 2012 expanded the services to which the fee applies to include cellular, wireless, and Voice-over-Internet-Protocol services while reducing the maximum monthly account fee from 45 cents to 18 cents. PSC must annually set the surcharge for the following fiscal year at an amount that is no higher than necessary to generate sufficient revenues to fund the costs of the programs for the following fiscal year, given the current fund balance.

Maryland Tort Claims Act: Under MTCA, State personnel are immune from liability for acts or omissions performed in the course of their official duties, so long as the acts or omissions are made without malice or gross negligence. Under MTCA, the State essentially waives its own common law immunity. However, MTCA limits State liability to \$400,000 to a single claimant for injuries arising from a single incident. (Chapter 132 of 2015 increased the liability limit under MTCA from \$200,000 to \$400,000 for causes of action arising on or after October 1, 2015.) MTCA covers a multitude of personnel, including some local officials and nonprofit organizations. In actions involving malice or gross negligence or actions outside of the scope of the public duties of the State employee, the State employee is not shielded by the State's color of authority or sovereign immunity and may be held personally liable.

Local Government Tort Claims Act: LGTCA is the local government counterpart to MTCA. LGTCA defines local government to include counties, municipal corporations, Baltimore City, and various agencies and authorities of local governments such as community colleges, county public libraries, special taxing districts, nonprofit community service corporations, sanitary districts, housing authorities, and commercial district management authorities.

Pursuant to Chapter 131 of 2015, for causes of action arising on or after October 1, 2015, LGTCA limits the liability of a local government to \$400,000 per individual claim and \$800,000 per total claims that arise from the same occurrence for damages from tortious acts or omissions (including intentional and constitutional torts). It further establishes that the local government is liable for the tortious acts or omissions of its employees acting within the scope of employment. Thus, LGTCA prevents local governments from asserting a common law claim of governmental immunity from liability for such acts or omissions of its employees.

Background: Generally, senior call-check programs call an individual or receive a call from the individual each day at a predetermined time. If the individual does not answer, or does not call, the program notifies family, friends, and/or local agencies of that fact. A number of organizations in the State provide volunteer call-check services for senior citizens in their communities. Some counties also have dedicated programs. Commercial call-check services are also available for a monthly fee that ranges from about \$15 to \$40.

There are more than 800,000 Maryland residents age 65 or older. Nationally, approximately 44% of those age 65 or older live alone. Assuming national statistics are representative of Maryland seniors, at least 352,000 seniors live alone in the State.

In fiscal 2017, USTF expenditures are an estimated \$4.0 million. The monthly fee is 5 cents per customer. The fiscal 2017 USTF estimated ending fund balance is \$11.5 million.

State Fiscal Effect: The bill specifies that, beginning in fiscal 2019, the program must be funded at an amount that is equal to the cost that MDOA is expected to incur for the upcoming fiscal year to provide the service and administer the program. However, previous advice provided by the Attorney General indicates that a mandatory appropriation must either include an exact dollar figure for the funding or a funding formula that makes it possible to compute the level of funding required. Thus, the bill does not establish a mandated appropriation.

For purposes of this fiscal and policy note, it is assumed that funding for the program begins in fiscal 2018, which reflects a 30-day startup delay. Thus, State finances are not affected in fiscal 2017 despite the bill's June 1, 2017 effective date.

Based on information provided by MDOA, the cost to contract with a company to provide senior call-check service and notification for 50,000 individuals is estimated to cost approximately \$126,000 annually. This amount is based directly on an estimate by a company that provides these services, and includes the costs of the hardware and associated software.

Therefore, special fund expenditures for USTF increase by approximately \$126,000 annually beginning in fiscal 2018 to fund the program (through a transfer of funds to MDOA). MDOA special fund revenues and expenditures increase correspondingly to pay for the contractual services.

The Department of Legislative Services notes that there is likely sufficient fund balance (\$11.5 million) to pay for a program with these costs without directly requiring the USTF charge to increase from its current level. However, in the unlikely event that the USTF fund balance is insufficient to pay for some or all of the program, special fund revenues increase as necessary to cover the costs of the program.

Specifying that MTCA applies to specified units, employees, and agents that participate in the program for services the unit or person provides under the program is not anticipated to materially affect SITF expenditures for claims filed under MTCA, as those entities are likely already subject to MTCA in most circumstances.

Local Expenditures: Local governments can participate in the program, if they choose to do so, with existing resources. Specifying that LGTCA applies to specified units, employees, and agents that participate in the program for services the unit or person provides under the program is not anticipated to materially affect local expenditures for claims filed under LGTCA, as those entities are likely already subject to LGTCA in most circumstances.

Additional Comments: The Department of Information Technology (DoIT) provided a cost estimate for the design, construction, and operation of a call-check program, which is an option under the bill, as opposed to contracting for an existing system. The cost estimate provided by DoIT is approximately \$449,000 in fiscal 2018 and \$277,000 annually thereafter. First-year costs are higher due to equipment costs (\$141,000) and contractual costs (\$100,000). Ongoing costs after that generally relate to server costs and the costs of telephone service.

Additional Information

Prior Introductions: HB 744 of 2016, a similar bill, passed the House with amendments and received a hearing from the Senate Finance Committee, but no further action was taken.

Cross File: SB 248 (Senator Middleton) - Finance.

Information Source(s): Department of Information Technology; Maryland Department of Aging; Public Service Commission; Baltimore City; Caroline and Prince George's counties; City of Bowie; Department of Legislative Services

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