

Department of Legislative Services
 Maryland General Assembly
 2017 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 246

(Chair, Economic Matters Committee)(By Request -
 Departmental - Labor, Licensing and Regulation)

Economic Matters

Education, Health, and Environmental Affairs

**Department of Labor, Licensing, and Regulation - State Occupational
 Mechanical Licensing Boards - Fund and Fees**

This departmental bill establishes the State Occupational Mechanical Licensing Boards' Fund in the Department of Labor, Licensing, and Regulation (DLLR); repeals statutory fees and instead authorizes the four mechanical boards to set fees by regulation; and redirects licensing revenue associated with the boards from the general fund to the new special fund. Penalty revenue, where applicable, and investment earnings continue to accrue to the general fund. Existing statutory fees remain in effect until new fees adopted by the boards in regulation take effect.

The bill takes effect July 1, 2018.

Fiscal Summary

State Effect: No effect in FY 2018. Special fund revenues for DLLR increase by \$0.8 million annually beginning in FY 2019 from license revenue, with \$100,000 retained as fund balance each year. Special fund expenditures for DLLR increase correspondingly to continue existing operations, hire two additional staff, and make required reversions. Net general fund revenues decrease by \$0.6 million to \$0.7 million annually beginning in FY 2019 from foregone license revenue, offset in part by required reversions. General fund expenditures decrease by \$0.4 million annually beginning in FY 2019 as the boards are no longer funded with general fund appropriations. The net effect is generally the cost of two additional staff and a portion of the indirect costs assessed on the boards by DLLR.

(in dollars)	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
GF Revenue	(\$695,900)	(\$595,000)	(\$603,700)	(\$612,900)	(\$622,500)
SF Revenue	\$768,500	\$775,300	\$768,500	\$775,300	\$768,500
GF Expenditure	(\$365,500)	(\$367,300)	(\$369,100)	(\$371,000)	(\$372,800)
SF Expenditure	\$668,500	\$775,300	\$768,500	\$775,300	\$768,500
Net Effect	(\$230,400)	(\$227,700)	(\$234,600)	(\$241,900)	(\$249,700)

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

Local Effect: None.

Small Business Effect: DLLR has determined that this bill has a meaningful impact on small business (attached). The Department of Legislative Services disagrees with this assessment, as discussed below. (The attached assessment does not reflect amendments to the bill.)

Analysis

Bill Summary:

Mechanical Boards' Fund

The State Occupational Mechanical Licensing Boards' Fund is established as a special, nonlapsing fund and consists of fees collected from the four mechanical boards in DLLR: the State Board of Master Electricians; the State Board of Stationary Engineers; the State Board of Plumbing; and the State Board of Heating, Ventilation, Air-Conditioning and Refrigeration Contractors.

The fund must be used to cover the actual documented direct and indirect costs of fulfilling the statutory and regulatory duties of each of the mechanical boards. The fees charged must be set so as to produce funds approximate to the cost of maintaining the boards. At the end of each fiscal year, any unspent and unencumbered portion of the special fund in excess of \$100,000 reverts to the general fund. The legislative auditor must audit the fund. License revenue accrues to the special fund; however, investment earnings and penalty revenue, where applicable, accrue to the general fund.

Fees Set by Regulation, Costs May Be Averaged Across Boards

License fees are repealed from statute and each mechanical board is instead authorized to establish fees by regulation. Each board must set fees based on its direct and indirect costs, as determined by the Secretary of Labor, Licensing, and Regulation. Provided that the boards consent, the Secretary may average the direct and indirect costs of one or more boards in order to establish fees that more equitably distribute the costs associated with the operation of each board. Unless otherwise provided by law, each board must pay all fees to the Comptroller, who then distributes the fees to the special fund.

Except for examination fees, each fee established by the boards may not be increased by more than 12.5% of the existing and corresponding fee. Each board must publish a schedule of the fees it sets by regulation.

Current Law/Background: The bill establishes a joint special fund for the four mechanical boards in much the same way as Chapter 227 of 2003 established a special fund for the five design boards in DLLR. Each board licenses and regulates its respective professions to the extent provided for in State law. Combined, the mechanical boards have approximately 45,000 licensees.

DLLR advises that each of the mechanical boards has endured numerous rounds of cost containment adjustments in recent years, resulting in inadequate regulation of the relevant industries. Due to cost containment measures adopted in 2009, one individual currently serves as the executive director of the four mechanical boards as well as the Elevator Safety Review Board. In addition to the director, the only other staff dedicated to the mechanical boards are three administrative support employees. By contrast, the Real Estate Commission, which is special funded and has a similar number of total licensees, has a staff of 17, including 2 senior managers, 5 investigators, a paralegal, and a board secretary.

The Division of Occupational and Professional Licensing has limited centralized resources to supplement and assist board staff. Service and responsiveness to applicants, licensees, the public, and the boards themselves have been significantly and adversely affected. Timely responses to inquiries cannot be reasonably assured, license issuance is often delayed, and proposed regulations are often delayed for months.

The boards are required to pursue violators of their respective statutes and effect remedies or file criminal charges on behalf of the public. Timely complaint resolution is an important function of the boards and commissions in DLLR, but it is critical with respect to the mechanical boards due to the nature of the work performed by their licensees. However, the boards lack even dedicated investigators.

Licensing fee revenues from the mechanical boards have regularly exceeded the general fund operating expenditures for those boards due to the combination of cost containment and consistent revenue streams. For example, revenues exceeded expenditures by \$407,000 in fiscal 2015 and \$467,000 in fiscal 2016, and they are anticipated to exceed expenditures by \$409,000 in fiscal 2017. In some years, expenditures by the boards are less than half of the revenues they generate from fees.

State Fiscal Effect:

Mechanical Board Special Fund and Indirect Costs

Beginning July 1, 2018, mechanical board licensing revenue accrues to the mechanical board special fund. Accordingly, special fund revenues increase by about \$770,000 in fiscal 2019 and by similar amounts each year thereafter.

As noted above, the mechanical boards have consistently collected more revenue each year than their general fund appropriations. Creating a dedicated funding stream allows DLLR to hire much-needed staff to assist in the regulation of the affected industries. Therefore, special fund expenditures increase by \$152,614 in fiscal 2019, which assumes new staff are in place on the bill’s July 1, 2018 effective date. This estimate reflects the cost of hiring one investigator and one administrative staff to assist the boards with their ongoing regulatory responsibilities. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Positions	2
Salaries and Fringe Benefits	\$139,409
Other Operating Expenses	<u>13,205</u>
New FY 2019 Mechanical Board Staff Expenditures	\$152,614

Future year expenditures reflect full salaries with annual increases and employee turnover and ongoing operating expenses.

When the costs of additional staff are combined with the cost of existing mechanical board operations, indirect costs, and required reversions, mechanical board special fund expenditures increase by approximately \$670,000 in fiscal 2019 and by approximately \$770,000 annually thereafter.

DLLR advises that indirect costs charged to the mechanical boards will be approximately \$95,000 annually beginning in fiscal 2019, but that these charges will offset indirect costs charged to other special-funded boards in the department. Two existing special funds in DLLR have reversion provisions and must revert any fund balance above a certain threshold to the general fund at the end of each fiscal year.

In fiscal 2016, about 82% of DLLR’s indirect costs were assessed to special funds without reversions. Assuming that indirect cost offsets are applied according to that same ratio, then about \$77,900 (82%) of the \$95,000 indirect cost allocation to the mechanical boards represents foregone general fund revenues.

Exhibit 1 shows a five-year projection of the mechanical board special fund established under the bill. This analysis assumes a stable number of licensees, that all fees remain at existing levels, and that the current revenue pattern continues with slightly more revenues collected in even-numbered years than in odd-numbered years. To the extent that fees are decreased to more closely match the boards’ direct and indirect costs, less money is available for general fund reversions.

Exhibit 1
Mechanical Board Special Fund Projection
Fiscal 2019-2023

	<u>FY 2019</u>	<u>FY 2020</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>
Beginning Balance	\$0	\$100,000	\$100,000	\$100,000	\$100,000
Revenue	768,484	775,303	768,484	775,303	768,484
Total Available Funds	\$768,484	\$875,303	\$868,484	\$875,303	\$868,484
Existing Costs	\$365,477	\$367,305	\$369,141	\$370,987	\$372,842
New Staff Costs	152,614	149,889	156,818	164,143	171,891
Indirect Costs	94,855	94,855	94,855	94,855	94,855
Total Costs	\$612,946	\$612,049	\$620,814	\$629,985	\$639,588
Balance Before Reversion	\$155,538	\$263,254	\$247,670	\$245,318	\$228,896
Reversion	55,538	163,254	147,670	145,318	128,896
End of Year Balance	\$100,000	\$100,000	\$100,000	\$100,000	\$100,000

Note: Numbers may not sum to total due to rounding. There is no effect in fiscal 2018.

Source: Department of Labor, Licensing, and Regulation; Department of Legislative Services

General Fund

Beginning July 1, 2018, mechanical board licensing revenue no longer accrues to the general fund and instead accrues to the mechanical board special fund. However, the bill requires that any unspent and unencumbered mechanical board fund balance in excess of \$100,000 revert to the general fund at the end of each year. In addition, approximately 18% of DLLR's indirect cost assessment (discussed above) will revert to the general fund through other existing special fund reversion provisions.

Accounting for all three effects, net general fund revenues decrease by \$0.7 million in fiscal 2019 and by \$0.6 million annually thereafter. Penalty revenue and interest continue to accrue to the general fund and are, therefore, unaffected by the bill.

General fund expenditures decrease by approximately \$0.4 million annually beginning in fiscal 2019 as the mechanical boards are no longer funded through general fund appropriations. This analysis assumes staffing levels would remain unchanged if the mechanical boards were still general funded.

Accordingly, the net impact on the general fund equates to approximately \$230,000 to \$250,000 less in revenues each year beginning in fiscal 2020. In fiscal 2019, the ability to retain \$100,000 in the new special fund results in a one-time impact on the general fund, with the net impact that year being slightly higher at approximately \$330,000.

Small Business Effect: While small businesses in the affected industries may benefit from increased regulatory oversight, the overall effect on any individual business is minimal.

Additional Information

Prior Introductions: None.

Cross File: None.

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

Fiscal Note History: First Reader - February 6, 2017
mm/mcr Revised - Correction - March 13, 2017
Third Reader - April 4, 2017
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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Department of Labor, Licensing and Regulation – Occupational and Professional Licensing - Board of Master Electricians, Board of Stationary Engineers, Board of Plumbing, and Board of Heating, Ventilation, Air-Conditioning and Refrigeration Contractors - Funding

BILL NUMBER: HB 246

PREPARED BY: John Papavasiliou

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

Many of the 45,000 licenses issued are to individuals that operate small businesses. Services provided to these licensees would show remarkable improvement. Licenses would be issued faster, and investigations would be expedited, facilitating a more expeditious outcome of conflicts with customers.

Impact on Local Government

This legislation does not impact local government.