

Department of Legislative Services  
Maryland General Assembly  
2019 Session

FISCAL AND POLICY NOTE  
Third Reader

House Bill 1100 (The Speaker)(By Request - Department of Legislative Services)

Environment and Transportation Education, Health, and Environmental Affairs

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State Board of Waterworks and Waste Systems Operators - Fee Setting, Sunset Extension, and Program Evaluation

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This bill extends the termination date of the State Board of Waterworks and Waste System Operators by 10 years to July 1, 2031, and requires a preliminary sunset evaluation of the board by December 15, 2028. The bill changes the board's current authorization to set fees, and instead *requires* the board to set reasonable fees to cover the board's actual direct and indirect regulatory costs. **The bill takes effect July 1, 2019.**

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Fiscal Summary

**State Effect:** General fund revenues are maintained beyond FY 2021 and increase beginning in FY 2020 due to the required increase in fees. General and federal fund expenditures for the board are maintained beyond FY 2021. The Governor's proposed FY 2020 budget includes \$223,524 in general funds and \$67,918 in federal funds for the board.

**Local Effect:** The bill is not anticipated to significantly affect local governments.

**Small Business Effect:** Minimal, as discussed below.

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Analysis

**Bill Summary:** The board must set reasonable fees for the issuance and renewal of certificates and its other services, and the fees must be set to produce funds sufficient to cover the actual direct and indirect costs of regulating waterworks, wastewater works, and industrial wastewater works.

## **Current Law/Background:**

### *State Board of Waterworks and Waste Systems Operators*

The Board of Waterworks and Waste Systems Operators was established by Chapter 430 of 1957. The board was initially created to examine and certify the superintendents of waterworks and waste systems. In 1982, the board's regulatory purview increased to include operators in addition to superintendents. An operator of a waterworks participates in the control of the flow, processing, and distribution of water, and an operator of a wastewater works participates in the collection, control of flow, processing, and discharge of wastewater and effluent. Waterworks operators treat water so that it is safe to drink, and waste systems operators remove harmful pollutants from domestic and industrial waste so that it is safe to return to the environment. A superintendent is certified as the individual who is in charge at either type of facility. The purpose of the board is to protect the quality of water and public health by ensuring that operators and superintendents meet minimum professional standards.

### *Maryland Program Evaluation Act*

The board is 1 of approximately 70 regulatory entities and activities currently subject to periodic evaluation under the Maryland Program Evaluation Act (§ 8-401 *et seq.* of the State Government Article). The Act establishes a process better known as "sunset review" because most of the agencies subject to review are also subject to termination, including the board, which is scheduled to terminate July 1, 2021.

The Department of Legislative Services (DLS) conducted a preliminary evaluation of the board in 2018, [\*Preliminary Evaluation of the State Board of Waterworks and Waste Systems Operators\*](#). This bill implements DLS's primary recommendations stemming from the preliminary sunset evaluation report, which were approved by the Legislative Policy Committee.

DLS found that the board appears to be operating within its statutory authority and meeting its mandated duties. Thus, DLS recommended (1) waiving the board from a full evaluation and (2) extending the termination date of the board by 10 years to July 1, 2031. DLS also recommended that statute be amended to require that fees be set at a level such that revenues generated by the board are sufficient to cover its expenditures, which this bill does.

### *Board Finances and Fee Levels*

The board is funded with State general funds and federal funds, and board revenues generated by fees associated with certification are credited to the general fund. In response

to a 2009 full evaluation by DLS, the board raised fees in 2014, which resulted in substantially increased revenues that eliminated the persistent gap between the board's annual expenditures and revenues.

However, in 2016, the Governor initiated a statewide fee reduction initiative, and the board approved a fee reduction that restored its fees to the pre-2014 levels, which are shown in **Exhibit 1**. As shown by **Exhibit 2**, revenues have taken a precipitous decline in the years following the reductions. After fully covering costs in fiscal 2015 and 2016, revenues are now well below the board's expenditures, and are projected to continue to be well below the board's expenditures in the future. The financial history of the board suggests that it would cover its expenses if certain fees were raised back to where they were before the statewide cuts were implemented.

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**Exhibit 1**  
**Certificates and Fee Structure**

<u>Service</u>	<u>Operator</u>	<u>O-I-T*</u>	<u>Superintendent</u>	<u>Grandparented</u>
Exam	\$50	N/A	N/A	N/A
Retake Exam	100	\$100	N/A	N/A
Certificate (Initial and Renewal**)	50	50	\$50	\$50 for water treatment and water distribution N/A for others
Reciprocity	150	N/A	N/A	N/A
Replacement Certificate	25	25	25	25
Replacement Renewal Card	15	15	15	15
Late Renewal (in addition to standard renewal fee)	100	100	100	100
Reinstatement (in addition to standard renewal fee)	150	N/A	N/A	N/A

\*O-I-T: Operator in training

\*\*Generally all certificates are valid for three years from the date of issuance

Source: Code of Maryland Regulations

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**Exhibit 2**  
**Fiscal History of the Board**  
**Fiscal 2014-2018**

	<u>2014</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>
Expenditures	\$278,373	\$210,941	\$291,941	\$223,940	\$266,189
Revenues	214,271	320,999	305,946	194,522	184,240
<b>Excess/Gap</b>	<b>(64,102)</b>	<b>110,058</b>	<b>14,914</b>	<b>(29,418)</b>	<b>(81,949)</b>
Coverage of Expenditures	77%	152.2%	105%	86.9%	69.2%

Source: Board of Waterworks and Waste Systems Operators

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**State Revenues:** General fund revenues are maintained beyond fiscal 2021 due to the extension of the board, and general fund revenues increase beginning in fiscal 2020 from the required fee increases. Because certificates are generally valid for three years, and there was a significant fee reduction in fiscal 2016, no consistent pattern of revenues has been established in recent years, which makes it difficult to evaluate how much revenues need to increase to cover the board's expenditures. However, in fiscal 2018, there was an \$81,949 gap in revenues, so revenues likely need to increase by at least that amount.

**State Expenditures:** General and federal fund expenditures for the board are maintained beyond fiscal 2021 due to the extension of the board's termination date. The Governor's proposed fiscal 2020 budget includes \$291,442 (\$223,524 in general funds, and \$67,918 in federal funds from the Safe Drinking Water Act grant project set-aside). The Maryland Department of the Environment (MDE) can promulgate regulations to increase fees with existing budgeted staff and resources.

**Small Business Effect:** Expenditures increase for small businesses that employ waterworks and waste system operators and are responsible for their employees' certification fees. MDE advises private businesses own and operate approximately 60% of the waterworks and waste system facilities statewide, and most are small businesses. Although the magnitude of any impact on small businesses depends on the fee levels ultimately set by MDE, the overall impact is expected to be minimal.

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**Additional Information**

**Prior Introductions:** None.

**Cross File:** SB 585 (The President)(By Request - Department of Legislative Services) - Education, Health, and Environmental Affairs.

**Information Source(s):** Maryland Department of the Environment; Department of Legislative Services

**Fiscal Note History:** First Reader - February 19, 2019  
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