SB 938

Department of Legislative Services

Maryland General Assembly
2020 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 938 (Senator Hayes, *et al.*)
Finance Health and Government Operations

Hospitals - Changes in Status - Hospital Employee Retraining and Placement

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This bill specifies that, if a hospital closes, merges, or is *fully* delicensed and workers are displaced, *each* hospital must pay a fee to the Maryland Department of Labor (MDL) for the Hospital Employees Retraining Fund. Also, annually by July 1, each hospital must pay a direct remittance to MDL for the fund. Each hospital must submit an annual report to the Health Services Cost Review Commission (HSCRC) and MDL on the number and categories of hospital employees displaced due to layoffs. An organization representing hospital employees that receives funding from hospitals for worker retraining must submit an annual report to MDL and HSCRC that details the funding received and training provided. In addition, the bill expands the existing hospital retraining program. By September 30, 2023, MDL, in conjunction with HSCRC, must report to the Senate Finance Committee and the House Health and Government Operations Committee regarding the implementation of fund requirements. **The bill terminates September 30, 2023.**

Fiscal Summary

State Effect: Special fund revenues increase, by an unknown amount, in FY 2022 through 2024 only from the direct remittance paid by hospitals. Special fund expenditures increase beginning as early as FY 2021, as discussed below.

Local Effect: The bill is not anticipated to materially impact local government operations or finances.

Small Business Effect: None.

Analysis

Bill Summary: "Acquisition" means (1) any transfer of stock or assets that results in a change of the person or persons who control a health care facility or (2) the transfer of any stock or ownership interest in a health care facility in excess of 25%.

"Closure" means the complete cessation of all services in a health care facility whose rates are set by HSCRC. "Partial closure" means the closure of a service line of a health care facility whose rates are set by HSCRC. "Service line" means a grouping of services into higher level categories that reflect similar clinical delivery.

"Full delicensure" means the total withdrawal by the Secretary of Health of the license to operate services in accordance with the process established in the Health-General Article. "Partial delicensure" means withdrawal by the Secretary of Health of the license to operate a portion of beds or services in a health care facility whose rates are set by HSCRC in accordance with the process established in the Health-General Article.

"Merger" means the union of two or more hospitals by the transfer of all the property of one or more of the hospitals to one of the hospitals that continue to exist.

"Downsize" means to reduce the number of employees of a health care facility by at least 17 full-time equivalent employees in any consecutive three-month period.

Fee Assessment – Closure, Merger, or Full Delicensure

If a hospital closes, merges, or is *fully* delicensed and workers are displaced, *each* hospital must pay a fee directly to MDL. The fee *may* not exceed 0.01% of the gross operating revenue for the fiscal year immediately preceding the closure or delicensing of the hospital. A fee must only be assessed once for each closure, merger, or *full* delicensure. The Secretary of Labor must pay the fees received into the Hospital Employees Retraining Fund.

Direct Remittance – All Hospitals Annually through July 2023

On July 1 each year, each hospital regulated by HSCRC must pay a direct remittance equal to 0.006% of the hospital's total annual revenue approved by HSCRC for the immediately preceding year. The remittance must be paid directly to MDL, and the Secretary of Labor must pay the remittance into the Hospital Employees Retraining Fund.

If in any year the fund balance is depleted, HSCRC must require each hospital to pay MDL a direct remittance to address the needs of any partial closure, downsizing, acquisition, or partial delicensure of a hospital.

HSCRC may not raise hospital rates as part of the annual update factor to offset the hospitals' direct remittances to the fund.

Hospital Retraining Program

The bill expands the existing hospital retraining program to include the retraining of, and *job-seeking assistance for*, hospital employees who are *nonexecutive employees, who are not licensed physicians or physician assistants*, and who are unemployed or who may become unemployed as a result of the closing, *partial closure*, delicensing, downsizing, or *acquisition* of a hospital or the merging of hospitals.

The retraining program must include (1) job-seeking assistance with designated entities and (2) training and skills development through programs funded by MDL, the hospital or health system, or other available programs. The program must require that the hospital work with employees (and, if applicable, the employees' representatives) to identify available and appropriate training or retraining programs that may be used in anticipation of the closure, partial closure, or conversion to a freestanding medical facility.

Before MDL uses the program, any other program in MDL may first be used to provide training and assistance to the hospital employees who would be eligible for training and assistance under the program. MDL may use vendors to provide the services and may use the fund to pay the vendors.

Any unexpended funds remaining in the Hospital Employees Retraining Fund at the end of the fiscal year (and as of September 30, 2023) must be returned to the hospitals that contributed to the fund on a pro rata basis.

Maryland Department of Labor Required Report

MDL's required report must include (1) the annual fee contributed by each hospital to the fund; (2) any additional fee required by HSCRC and paid to the fund; (3) the annual reports submitted by each hospital; (4) the amount of money drawn from the fund for retraining programs and the fund balance; (5) the number of eligible employees that used the program during the reporting period; (6) the number of eligible employees that used other training and assistance programs; and (7) the number of eligible employees denied access to the program due to funding shortages.

Current Law: If a hospital voluntarily closes, merges, or is delicensed and workers are displaced, each hospital must pay a fee directly to MDL that may not exceed 0.01% of the gross operating revenue for the fiscal year immediately preceding the closure or delicensing. Current law does not establish a maximum fee for mergers. A fee may only be assessed once for each voluntary closure, merger, or delicensure. The Secretary of Labor must pay the fees received into the Hospital Employees [Re]Training Fund.

MDL must establish a program for the retraining and placement of hospital employees who are unemployed or who may become unemployed as a result of the closing, delicensing, downsizing, or possible downsizing of a hospital or the merging of hospitals. The fund must be used to (1) retrain and place hospital employees in other jobs and (2) pay any and all expenses of MDL for administering the fund and its related activities. Any unexpended funds remaining at the end of the fiscal year may not revert to the general fund. The Secretary of Labor and the Secretary of Health are required to develop regulations to implement the program.

Provisions of the Health-General Article also authorize HSCRC to temporarily adjust hospital rates for those hospitals that are directly involved in a merger, consolidation, closure, or delicensure to provide sufficient funds for an orderly transition. Funds can cover allowances for those employees who are or would be displaced, allowances to permit a surviving institution in a merger to generate capital to convert the closed facility, and other purposes.

Background: In recent years, HSCRC has advised that a fee has been *calculated* under the statute related to the Hospital Employees Retraining Fund on two occasions. An assessment of $110,000 was imposed in 1991 when Homewood Hospital closed. In 1993, a letter from the Attorney General advised that sufficient funds still existed in the fund to cover the expenses associated with the closure of Leland Memorial Hospital. Since that time, no funds have been collected or deposited into the fund. When Church Hospital provided notice of intent to close in October 1999, the estimate of closing costs included "Outplacement Services and Other Personnel Expenses" totaling $228,000. As Church Hospital was a MedStar facility, the closing costs were collected from the remaining MedStar hospitals in the State. Thus, no fee was calculated or assessed at that time.

HSCRC currently receives data on hospital employees only once a year, covering a two-week period in February. There is currently no real-time reporting for hospital employment. Thus, hospitals would have to voluntarily report any reduction in workforce stemming from a downsizing initiative at the hospital.

In recent years, MDL has advised that it does not maintain any balance in the Hospital Employees Retraining Fund. MDL further advises that the Division of Workforce Development and Adult Learning administers funds allocated by the federal government through the Workforce Innovation and Opportunity Act that help MDL assist "dislocated workers" through programming administered by the State's 12 local workforce areas. Additionally, since 1989, the division has offered rapid response services in coordination with key partners to act as both a provider of direct reemployment services and as a facilitator of additional services and resources. Staff coordinates services and provides immediate aid to companies and their affected workers.

State Fiscal Effect: Special fund revenues increase, by an unknown amount, as a result of the requirement that a direct remittance of 0.006% be paid by each hospital regulated by HSCRC by July 1 each year. The other funding provision in the bill likely has no impact, given recent history on assessments as described above. Given the bill's effective and termination dates, direct remittances will only be collected in fiscal 2022 through 2024. Special fund expenditures increase beginning as soon as fiscal 2021, to the extent that funds are required for the retraining program following the closing, partial closure, delicensing, downsizing, or acquisition of a hospital or the merging of hospitals.

MDL advises that, if employees of a hospital are laid off as a result of a closing, partial closure, delicensing, downsizing, or acquisition of a hospital or the merging of hospitals, then the division would use federal funds to provide job placement services. As a result, MDL states that capitalizing the Hospital Employees Retraining Fund would require hospitals to provide funding to MDL for activities that may otherwise be provided using federal funds. Under the bill, even though MDL may use other existing programs to provide job training and assistance instead of (or before using) the fund, the requirement for a direct remittance from hospitals is not affected by such a decision.

According to MDL, federal fund revenues are not affected, as the allocation of Workforce Innovation and Opportunity Act funds is independent from other State resources. Additionally, as MDL may use other existing programs to provide job training and assistance before using the fund (capitalized with the direct remittance funds from the hospitals), federal fund expenditures are not affected.

Additional Information

Prior Introductions: None.

Designated Cross File: HB 1571 (Delegate Pena-Melnyk, *et al.*) - Health and Government Operations.

Information Source(s): Maryland Department of Health; Maryland Department of Labor; Department of Legislative Services

Fiscal Note History:	First Reader - March 5, 2020
rh/jc	Third Reader - March 18, 2020
	Revised - Amendment(s) - March 18, 2020
	Revised - Clarification - March 18, 2020

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