

Department of Legislative Services
Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 608

Finance

(Senator M. Washington)

Health and Government Operations

Human Services - Maryland Statewide Independent Living Council

This bill generally codifies the Maryland Statewide Independent Living Council (MSILC) – as created by an executive order in 1993 in accordance with the Federal Rehabilitation Act – as an instrumentality of the State. **The bill takes effect July 1, 2023.**

Fiscal Summary

State Effect: State expenditures (general/federal funds) and federal fund revenues *may* increase beginning in FY 2024 for the Office of the Attorney General (OAG), as discussed below. The bill is not otherwise anticipated to materially affect State operations or finances.

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

Small Business Effect: None.

Analysis

Bill Summary:

General Responsibilities of the Statewide Independent Living Council and Related Provisions

MSILC must (1) work in conjunction with Centers for Independent Living, defined as community-based organizations that are designed and operated by people with disabilities, in submitting, monitoring, implementing, and evaluating the State Plan for Independent

Living (SPIL) and (2) carry out other duties as required under State and federal law to support the implementation of SPIL.

MSILC may (1) employ a staff; (2) adopt bylaws, policies, and procedures relating to its operations; (3) retain any necessary accountants, financial advisory, or other consultants; (4) maintain offices at a place it designates in the State; (5) accept loans, grants, or assistance of any kind from any entity of federal, State, or local government, an institution of higher education, or a private source if MSILC gives prior notice to the designated State entity (DSE); (6) enter into contracts and other legal instruments; (7) sue or be sued; and (8) do all things necessary or convenient to carry out the powers granted by the bill.

The Attorney General is the legal advisor to MSILC. With the approval of the Attorney General, MSILC may retain any other necessary attorneys. Each year, DSE must audit the books and records of MSILC. The bill defines the DSE as the State entity identified in SPIL as having responsibility for providing administrative support and disbursement of funds to MSILC to carry out the State plan.

Statewide Independent Living Council and Executive Director

The Governor must appoint the members of MSILC in accordance with the Federal Rehabilitation Act or any other federal law that modifies provisions for statewide independent living councils. A member of MSILC must reside in the State. In making appointments to MSILC, the Governor must consider diversity based on sex, gender identity, sexual orientation, race, ethnicity, and economic status, and representation from all geographic regions of the State. A member of MSILC may not serve more than two consecutive full three-year terms, as specified. The Governor may remove an appointed member for incompetence, misconduct, or failure to perform the duties of the position. A member of MSILC may not receive compensation as a member of MSILC but is entitled to reimbursement for expenses under the standard State travel regulations.

MSILC may act with an affirmative vote of a majority of its members. Each year MSILC must elect a chair from among its members.

MSILC must employ an executive director who has experience with, and possesses qualifications relevant to, the activities and purposes of MSILC.

Applicability of Specified Provisions of State Law

MSILC is generally exempt from Title 10 (miscellaneous provisions related to the Board of Public Works) and Division II (General Procurement Law) of the State Finance and Procurement Article. However, the bill also establishes that (1) MSILC is subject to the Open Meetings Act and the Public Information Act; (2) the board and the employees of

MSILC are subject to the Public Ethics Law; and (3) MSILC and the employees of MSILC are subject to Title 12, Subtitle 4 of the State Finance and Procurement Article (written procurement policies and procedures for exempt units). The employees of MSILC are not subject to the provisions of Division I of the State Personnel and Pensions Article that govern the State Personnel Management System.

Miscellaneous Provisions

A debt, claim, obligation, or liability of MSILC is not (1) a debt, claim, obligation, or liability of the State or (2) a pledge of the credit of the State. MSILC is exempt from State and local taxes.

Current Law: An executive order in 1993 formally created MSILC to work in conjunction with the Maryland State Division of Rehabilitation Services (DORS) in submitting, monitoring, and evaluating the implementation of SPIL and to carry out other duties as stipulated in the Federal Rehabilitation Act. In order to receive assistance under the Act, federal law requires that a state submit a SPIL, which must stipulate that the state will provide independent living services, directly and/or through grants and contracts, with federal, state, or other funds, and must describe how and to whom those funds will be disbursed for this purpose. The Act also requires a state to establish and maintain an independent living council that meets specified requirements, including those related to the composition and appointment of members. The duties and authorities of MSILC are set forth in federal regulations.

Also, pursuant to federal requirements, a MSILC must not be established as an entity within a State agency (including the DSE) and must be independent of and autonomous from the DSE and all other State agencies.

DORS is specifically required in the aforementioned executive order to provide staffing and resources as may be determined necessary to support the operation and duties of MSILC. The Maryland State Department of Education (MSDE) has statutory responsibility (§ 21-302 of the Education Article) to cooperate with the appropriate federal agencies in administering the federal rehabilitation acts and to do anything necessary to secure the benefits of such acts.

State/Local Fiscal Effect: As previously noted, DORS (within MSDE) is the designated entity within the State responsible for working with MSILC to ensure the overall facilitation of SPIL. MSDE anticipates that the bill has no impact on its expenditures or revenues; a minimal operational impact is anticipated to the extent that MSILC assumes some administrative functions under the bill. MSDE further advises that an assistant Attorney General (within MSDE) is currently serving as the legal advisor to MSILC (on a part-time basis). However, OAG, in response to a request for an estimate regarding the

fiscal impact of the bill, advises that two additional positions (one assistant Attorney General and one administrative assistant) are required, with associated expenditures of \$212,545 in fiscal 2024, which assumes a 90-day start-up delay from the bill's July 1, 2023 effective date, and a minimum of \$258,000 annually thereafter. OAG specifically advises that the additional resources are necessary due to the bill's requirement that OAG is the legal advisor to MSILC and the need to ensure compliance with various requirements, including those related to open meetings, the Public Information Act, and procurement. While the Department of Legislative Services acknowledges that additional resources *may* be needed, it is unable to independently validate the estimate prepared by OAG and reliably estimate whether any expenditures, particularly of the magnitude estimated by OAG, are required that can be solely attributable to the bill. To the extent that federal funds to support any *potential* new OAG positions are requested and awarded, federal fund revenues increase.

Although the bill exempts MSILC from State and local taxes, it is anticipated that any potential decrease in tax revenues does not materially affect State or local finances.

Additional Information

Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: HB 53 (Delegate Forbes, *et al.*) - Health and Government Operations.

Information Source(s): Office of the Attorney General; Comptroller's Office; Governor's Office; Maryland State Department of Education; Department of Budget and Management; Maryland Department of Disabilities; Maryland Department of Health; Department of Human Services; Department of Legislative Services

Fiscal Note History: First Reader - February 13, 2023

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