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Education, Energy, and the
Environment Committee

Joint Committee on the Chesapeake and
Atlantic Coastal Bays Critical Area



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The Senate of Maryland
ANNAPOLIS, MARYLAND 21401

SB 301 – The Veterans Discount Act

I am Senator Bryan Simonaire presenting SB 301.

I worked with the *Department of Veterans and Military Families*, *numerous other Departments* and *veteran advocacy groups* on this consensus legislation.

This bill honors our veterans and provides clear enabling authority for Departments and Boards to allow a veteran's discount on fees that are specifically set in statute.

Knowing the fiscal situation, this bill has no fiscal impact as it is enabling and creates no mandates.

However, in addition to providing enabling authority, it provides flexibility to the Departments and Boards and the important framework for easy future implementation.

Over the years, different legislators have passed a few bills authorizing discounts on fees for veterans. As I was researching other areas to provide discounts for veterans, I found there were literally 100s of places in Maryland law where the fees were set in statute.

Therefore, I looked for a more comprehensive way to provide a framework for discounts for our veterans.

Over the summer, I worked with the Attorney General's office to determine if and under what circumstances discounts could currently be applied to fees set specifically in statutes.

The answer was "*it depends*" as illustrated through many different scenarios.

In current law there were some cases, a discount would be allowed but in many other cases it would not be allowed.

The cleanest and most straightforward approach was to create an overall framework to grant this enabling authority throughout law where appropriate.

That is what this bill does by creating a general authorization section which is referenced by any section to grant enabling authority.

By creating this framework structure, it is very easy going forward to add or remove the enabling authority for any veteran's fee discount set in any section.

As you well know, the private sector has embraced this concept of honoring and thanking our veterans with discounts when shopping, going to restaurants and so many other areas.

There are 100s of fees set in statute and this bill took the top fees that would have the greatest impact on helping our veterans.

Generally speaking, the fees had to make sense to apply to veterans and be at least \$50 or more. However, if at a later date, the General Assembly wanted to authorize other fees, the framework would be there for easy inclusion.

Maryland can be a leader in providing a framework and authority to honor our veterans very similar to what the private sector already does.

When working with the Departments, one said, *"I will note additionally that we have run into this predicament before, whereby an emergency or some unforeseen disaster occurred and we sought ways to provide some means of relief but were hampered by statutory language that needed legislative action."*

This is a meaningful bill that provides flexibility to our Departments, shows honor to our veterans and *Makes Maryland More Welcoming to Veterans.*

For all these reasons, I ask for your favorable consideration.

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Chief Deputy Attorney General

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July 11, 2025

The Honorable Bryan W. Simonaire
Maryland Senate
320 James Senate Office Building
Annapolis, Maryland 21401
Via email

Dear Senator Simonaire:

You requested advice on whether a State agency has the authority to discount license and renewal fees for a subset of recipients if a license or renewal fee is already set in statute or via regulation. Without a specific statutory reference, fee, or set of facts, I will address this question generally. In my view, whether a State agency has the authority to provide a discount on fees that are already set in statute or by regulation would depend on the provisions in the statute that governs the agency in question. However, depending on the effect of a State agency's actions of altering fees, an exception to statutory provisions may be permitted.

"An administrative agency ... is a creature of statute, [which] has no inherent powers and its authority thus does not reach beyond the warrant provided it by statute." *Blakehurst Life Care Community/The Chestnut Real Estate Partnership v. Baltimore Co.*, 146 Md. App. 509, 519 (2002) (quoting *Adamson v. Correctional Med.*, 359 Md. 238, 250 (2000)). However, in certain circumstances if providing a reduced fee is *de minimis*, then a fee reduction may be permitted. The Attorney General's Office has previously advised, "insignificant deviations from a legal standard" may be excused under the *de minimis* doctrine. 78 *Opinions of the Attorney General* 26, 38 (1993). In that opinion, the Attorney General concluded that the agency had discretion to determine that small-scale construction was insignificant in terms of the public policy aims of a law preventing the building of "structures" in wetlands, thus the agency could allow them. *Id.*

Even if the situation for a fee reduction for a set fee does not fall under the *de minimis* doctrine, it is still possible that the fee reduction is consistent with the General Assembly's intent. In that case, an agency need not have explicit authority to act, however, a department's actions must be "consistent with the letter and spirit of the law under which the agency acts." *Lussier v. Maryland Racing Comm'n*, 343 Md. 681, 686 (1996).

Also, if a State agency has statutory authority to set fees, but must do so through regulation, then altering an already set fee would likely be subject to the provisions under the State's Administrative Procedure Act ("APA"), under Title 10, subtitle 1 of the State Government Article. While there are some instances where an exception applies, that decision is made on a case by case basis. Maryland courts have recognized that in enacting the APA the General Assembly "sought to balance the State's interest in efficient administration against the individual's interest in fairness," and to ensure that "certain basic principles of common sense, justice and fairness" apply "without unduly restricting the agencies in the performance of their various task." *Department of Health and Mental Hygiene v. Chimes*, 343 Md. 336, 338 (1996) (citation omitted). In light of this legislative intent, several decisions have recognized a range of permissible administrative actions that do not trigger the need for rulemaking procedures under the APA. For example, in *Maryland Ass'n of Health Maintenance Orgs. v. Health Services Cost Review Comm'n*, the Court determined that rulemaking was not required prior to the Commission's implementation of an inflation adjustment system to account for changes that occurred after the hospitals' initial rate reviews. 356 Md. 581 (1999). *See also Chimes*, 343 Md. 336 (finding that rulemaking is not required prior to implementation of a "growth cap" for certain costs of health care providers); *Baltimore Gas & Elec. Co. v. Public Service Comm'n*, 305 Md. 145 (1986) (recognizing that rulemaking is not required when agency chose to develop standards through adjudication of particular disputes rather than rulemaking).

Moreover, the Attorney General has observed that the APA procedures ensure "fairness and mature consideration of rules of general application." *75 Opinions of the Attorney General* 37, 43 (1990). In that opinion, the Attorney General advised that an important consideration for whether a directive or a similar statement is exempt from the APA is "the practical consequences for members of the public." *Id.* at 53. "The 'public' are those outside the agency whose situation is changed as a result of the agency's internal management statement." *Id.* at 54; *see also 79 Opinions of the Attorney General* 354, 360 (1994) ("The APA is intended to ensure the affected members of the public will have a chance to comment. . .").

In addition, if an agency is acting as a market participant when setting a fee, the agency action may be excluded from the APA rulemaking procedures. For example, APA rulemaking requirements did not apply when the Maryland Port Administration set charges for use of its marine terminals because "the setting of prices and related terms by a government agency for the goods or services that it makes available as a market participant" was not a "rule." *68 Opinions of the Attorney General* 9, 11 (1983). The reasoning here is that the agency is acting for the purpose of revenue-raising rather than regulation and it was not performing functions "peculiarly or uniquely

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governmental,” but instead setting charges “normally encountered in the outside world.” *Id.* at 12-13, 16. Additionally, it would be unreasonable to require an agency to go through cumbersome APA procedures every time it adjusted prices in a competitive marketplace. *Id.* at 14.

Considering the above, an agency’s ability to alter set fees depends upon what is warranted under the statute that governs a specific agency. Even if not expressly warranted in statute, in some cases, exceptions may be permitted for altering fees, depending upon the effect and nature of the agency’s action.

I hope this response is helpful. Please let me know if you have any further questions.

Sincerely,

A handwritten signature in cursive script, appearing to read "Shaunee L. Harrison".

Shaunee L. Harrison
Assistant Attorney General

