

Department of Legislative Services
 Maryland General Assembly
 2019 Session

FISCAL AND POLICY NOTE
 First Reader

House Bill 307 (Delegate Pena-Melnyk, *et al.*)
 Judiciary

Maryland Lynching Truth and Reconciliation Commission

This bill establishes the Maryland Lynching Truth and Reconciliation Commission. The Maryland State Archives (MSA) must provide staff for the commission, and the Office of the Attorney General (OAG) must provide a staff member to assist the commission. An interim report of the commission’s findings and recommendations is due by September 1, 2020, and the final report is due by December 1, 2021. **The bill takes effect June 1, 2019, and terminates June 30, 2022.**

Fiscal Summary

State Effect: General fund expenditures increase by \$75,712 in FY 2020. Future years reflect annualization and the termination date. Revenues are not affected. It is assumed that there is no effect in FY 2019, despite the bill’s June 1, 2019 effective date.

| (in dollars) | FY 2020 | FY 2021 | FY 2022 | FY 2023 | FY 2024 |
|----------------|------------|------------|------------|---------|---------|
| Revenues | \$0 | \$0 | \$0 | \$0 | \$0 |
| GF Expenditure | 75,700 | 66,500 | 34,400 | 0 | 0 |
| Net Effect | (\$75,700) | (\$66,500) | (\$34,400) | \$0 | \$0 |

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

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: The commission must:

- hold public hearings in each county where a lynching of an African American by a white mob has been documented;
- receive recommendations from the public, including families and communities affected by lynching, for addressing, engaging, and reconciling affected families and communities, as specified; and
- make recommendations for addressing the legacy of lynching that are rooted in the spirit of restorative justice and may include the erection of memorial plaques or signage at or near sites of racially motivated lynchings.

In conducting the required hearings, the commission *may* investigate (1) cases of racially motivated lynchings that are not documented but are brought to the commission's attention and (2) the involvement of government entities and news media in cases of racially motivated lynching.

The OAG staff member is authorized to issue subpoenas for a witness to testify or for the production of documents in connection with any investigation or hearing conducted by the commission.

A commission member may not receive compensation but is entitled to reimbursement for travel expenses.

Current Law/Background:

Efforts to Document of Lynching: According to news reports, the Equal Justice Initiative (EJI) helped start the dialogue in the United States regarding historical lynchings with its "Community Remembrance Project" which was formed to recognize the victims of lynching by collecting soil from lynching sites, erecting historical markers, and creating a national memorial that acknowledges the destructive impacts of racial injustice.

Media also reported that Mr. Will Schwarz, who has worked with EJI on the Community Remembrance Project, started the Maryland Lynching Memorial Project. The project is a nonprofit organization that works to advance the cause of reconciliation in Maryland by documenting the history of racial terror lynchings, advocating for public acknowledgement of these murders, and working to honor and dignify the lives of the victims.

Formation of Truth and Reconciliation Commissions: Truth and reconciliation commissions (TRCs) have been initiated in different states and in other countries, including

Canada, to focus on addressing inequality in an attempt to heal divisions in societies that have histories of violence and inequality. The commissions are established to research and report on abuses of human rights over a particular period of time in a specific place, or in relation to a specific conflict. TRCs have diverse mandates that are usually adapted to the needs of a the particular society, but in general, TRCs are convened to provide an official forum in which victims, victims' relatives, and perpetrators can give evidence of human rights abuses. TRCs have historically been required to provide reports that include recommendations on steps to prevent a recurrence of past abuses, reforms in government or social structures that perpetuated abuse, reconciliation plans, and appropriate reparations or memorials.

According to the Carnegie Council for Ethics in International Affairs (Carnegie Council), the first TRC was formed in South Africa under the Promotion of National Unity and Reconciliation Act of 1995, in order to investigate gross human rights violations that occurred during the period of the apartheid regime from 1960 to 1994. A number of other countries have formed similar commissions since then in order to address human rights abuses. The Truth and Reconciliation Commission of Canada began its work in 2009 and is focused on the Indian Residential School system and the abuses perpetrated by the church and government-run institutions against First Nations, Métis, and Inuit children.

The Carnegie Council has noted that while TRC structures in both South Africa and Canada have been sponsored and generated by national governments, formation of TRCs in the United States has been primarily the result of grassroots efforts. For instance, a TRC in Greensboro, North Carolina, was initiated and is led by local civil society organizations and Greensboro residents. That commission's goal is to address the lasting effects of the November 3, 1979, massacre in Greensboro involving local Ku Klux Klan and Nazi Party members who ambushed a coalition of racial and economic justice protestors. A number of protestors were wounded or killed, and the perpetrators were ultimately exonerated by all-White juries.

In 2012, the State of Maine and the Wabanaki tribal governments signed on to a joint tribal-state TRC that had been designed by grassroots activists, creating a hybrid model of the other TRC structures. The Maine and Wabanaki-State Child Welfare Truth and Reconciliation Commission was formed in 2012 to investigate and document an era in the state's history that saw Native American children being sent into foster care at an alarmingly high rate, calling into question the state's adherence to the federal Indian Child Welfare Act.

State Expenditures: General fund expenditures increase by \$75,712 in fiscal 2020, which accounts for a 30-day start-up delay. This estimate reflects the cost of hiring one contractual administrator for MSA. The contractual administrator will schedule, plan, organize, and

coordinate up to 24 public hearings; manage the production of meeting transcripts; and catalog and organize any materials provided to the commission.

It includes a salary and fringe benefits, one-time start-up costs, and ongoing operating expenses.

| | |
|---|-----------------|
| Contractual Position | 1 |
| Salary and Fringe Benefits | \$70,197 |
| One-time Start-up Costs | 4,890 |
| Ongoing Operating Expense | <u>625</u> |
| Total FY 2020 State Expenditures | \$75,712 |

Future year expenditures reflect (1) a full salary, with annual increases, employee turnover, and ongoing operating expenses and (2) termination of the contractual employee on December 31, 2021. This estimate does not include any health insurance costs that could be incurred for specified contractual employees under the State's implementation of the federal Patient Protection and Affordable Care Act.

However, MSA advises that it needs a total of three full-time contractual positions in order to staff the commission: (1) one senior program manager of sufficient stature and authority to oversee the project, provide executive direction and oversight, and manage the correlation of information gathered and the publication of findings; (2) one administrator to coordinate the public meetings, manage the production of meeting transcripts and commission reports, and manage the daily administrative business of the staff; and (3) one archivist supervisor to provide archival research support; interpret the records; write historical narratives; and catalog, describe, and organize materials provided to the commission.

The Department of Legislative Services (DLS) disagrees with MSA's assessment. Based on the duties assigned to the commission by the bill, the wealth of knowledge and resources that can be provided by commission members, and the assistance of an additional staff member from OAG, DLS advises that MSA can likely implement the bill's requirements to staff the commission with one full-time contractual staff position, as estimated above.

OAG advises that it can provide a staff member to assist the commission within existing budgeted resources.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Commission on Civil Rights; Office of the Attorney General; Maryland State Archives; U.S. Institute of Peace; *The Baltimore Sun*; Carnegie Council for Ethics in International Affairs; Department of Legislative Services

Fiscal Note History: First Reader - February 11, 2019
mag/kdm

Analysis by: Amber R. Gundlach

Direct Inquiries to:
(410) 946-5510
(301) 970-5510