

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE

Senate Bill 640 (Senator Frosh, *et al.*)
Judicial Proceedings

Civil Cases - Maryland Legal Services Corporation Fund - Surcharges - Repeal of Termination Date

This bill repeals the termination date of the provisions of law enacted in 2010 that increased the surcharge on fees, charges, and costs in civil cases. Repealing the termination date continues maximum surcharges of \$55 on civil cases filed in the circuit court, \$8 for summary ejectment cases, and \$18 for all other civil cases in the District Court. Money from the surcharge is deposited into the Maryland Legal Services Corporation (MLSC) Fund, which is used to finance civil legal services to indigent clients. Repealing the termination date also continues the requirement for MLSC to submit, for informational purposes only, its budget to the General Assembly.

The bill takes effect June 1, 2013.

Fiscal Summary

State Effect: Special fund revenues increase by \$5.7 million annually beginning in FY 2014, assuming the maximum surcharges are imposed and the number of cases remains constant. Special fund expenditures increase correspondingly. This maintains current funding levels, and the FY 2014 proposed State budget assumes that the increased surcharges continue. In addition, the bill may improve operational efficiency for the Judiciary to the extent it decreases the number of *pro se* litigants.

(\$ in millions)	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
SF Revenue	\$5.7	\$5.7	\$5.7	\$5.7	\$5.7
SF Expenditure	\$5.7	\$5.7	\$5.7	\$5.7	\$5.7
Net Effect	\$0	\$0	\$0	\$0	\$0

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

Local Effect: The bill may increase operational efficiency in the circuit courts to the extent it decreases the number of *pro se* litigants.

Small Business Effect: None.

Analysis

Current Law/Background: MLSC was established by the Maryland General Assembly in 1982. It receives and distributes funds to nonprofit grantees that provide legal assistance to eligible clients in civil cases.

The Governor is required to appropriate at least \$500,000 annually to support the activities of MLSC. This money comes from the State Unclaimed Property Fund. Additionally, lawyers are required to place small or short-term client trust funds into an Interest on Lawyer Trust Accounts (IOLTA) account, the interest on which is paid into the MLSC Fund.

In addition to these funds, a surcharge on filing fees in circuit court civil cases and District Court civil and summary ejectment cases is also deposited into the MLSC Fund. Prior to July 1, 2010, the maximum surcharge on civil cases in the circuit courts was \$25. In the District Court, the maximum surcharges were \$5 for summary ejectment cases and \$10 for all other civil cases.

The funds collected from the IOLTA, the surcharge, and the abandoned property funds are deposited by the Administrative Office of the Courts into the MLSC Fund, which MLSC then distributes in the form of grants to various organizations that perform the legal assistance services. As a result of the economic recession and the subsequent decline in interest rates, revenues from IOLTA earnings began to decline in fiscal 2009, resulting in a structural imbalance of \$2.3 million in that fiscal year. As a result, MLSC transferred \$800,000 from its reserve fund to maintain grant activity levels. In fiscal 2010, the structural imbalance improved slightly due to a decrease in grants; however, MLSC still needed to transfer \$1.5 million in reserves to address the gap in revenues.

Due to declining IOLTA revenue, as well as an increasing demand for legal services, the General Assembly passed Chapter 486 of 2010 (SB 248), which increased the maximum surcharge on civil cases filed in circuit courts from \$25 to \$55. In the District Court, the maximum authorized surcharge also increased from \$5 to \$8 for summary ejectment cases and from \$10 to \$18 for all other civil cases. The higher maximum surcharge increased filing fee revenue between fiscal 2010 and 2011, which allowed MLSC to

increase grant funding levels to pre-2010 levels while relying less heavily on its reserve fund. Pursuant to Chapter 486, the increased surcharges terminate June 30, 2013.

The expiration of the surcharge increases, coupled with the fact that the number of case filings eligible under this surcharge have been declining as well, will lead to an estimated 45% drop in filing fee revenue for MLSC in fiscal 2014 and an estimated 40% overall drop in total MLSC Fund revenue. Furthermore, IOLTA revenue is projected to decline even further as banks continue to lower the interest rates associated with these accounts.

The expiration of the surcharge increases and the decline in IOLTA revenues are projected to have a major effect on the level of grant expenditures. Should the termination of Chapter 486 become effective, MLSC will not be able to maintain its current funding level. Since MLSC's creation, it has made grants of more than \$182.0 million. In fiscal 2012, operating grants of \$15.5 million were awarded to 34 legal services providers. From those funds, more than 159,000 individuals and families received legal assistance in matters such as foreclosure, eviction, elder care, domestic violence, child custody, employment, food stamps, veterans' benefits, and other issues.

State and Local Fiscal Effect: Revenues from the filing fee surcharge are projected to be \$7,018,315 in fiscal 2014 if the provisions authorizing the increased surcharge terminate. Special fund revenues from the filing fee surcharge in fiscal 2013, the last year for which the increased surcharges are authorized, are estimated at \$12,750,000. Therefore, if the number of cases for which the surcharge is imposed and collected remains constant, special fund revenues increase by \$5,731,685 annually, which reflects continuation of the increased surcharge and maintains current funding levels. Special fund expenditures increase correspondingly as MLSC uses the surcharge revenue to award grants to legal service providers. The fiscal 2014 proposed State budget assumed that the increased surcharges continue.

Because grant funding to legal service providers decreases if the higher surcharges terminate June 30, 2013, the number of *pro se* litigants (individuals who are self-represented) is likely to increase. The Judiciary advises that *pro se* litigants require significantly more time from the District Court and the circuit courts. Accordingly, the bill may improve operational efficiency for the Judiciary to the extent it decreases the number of *pro se* litigants.

Additional Information

Prior Introductions: None.

Cross File: HB 838 (Delegate Dumais, *et al.*) - Judiciary.

Information Source(s): Judiciary (Administrative Office of the Courts), Department of Legislative Services

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ncs/kdm

Analysis by: Jennifer K. Botts

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