

**E90G
Registers of Wills**

Operating Budget Data

(\$ in Thousands)

	<u>FY 02</u> <u>Actual</u>	<u>FY 03</u> <u>Working</u>	<u>FY 04</u> <u>Allowance</u>	<u>Change</u>	<u>% Change</u> <u>Prior Year</u>
General Fund	\$59	\$75	\$75	\$0	
Total Funds	\$59	\$75	\$75	\$0	0.0%

Note: Numbers may not sum to total due to rounding.

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Analysis in Brief

Recommended Actions

1. Concur with Governor's allowance.
2. Add budget bill language regarding cost containment.

Updates

Salary Plan for Registers of Wills: The Board of Public Works approved the salary plan for the 24 elected Registers of Wills (ROW) on October 30, 2002, consistent with Chapter 494, Acts of 2002 that raised the maximum salary from \$75,000 to \$85,000.

Revenues and Expenses of the Registers of Wills: Appendix 3 provides a summary of the revenue attainment and expenses of each ROW office.

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Operating Budget Analysis

Program Description

Registers of Wills (ROW) in each jurisdiction are responsible for the administration of estates by providing proper forms and direction, assisting, and advising any person who requests assistance in the preparation of a form for administrative probate, admitting wills to probate and issuing Letters of Administration, auditing accounts, and maintaining accurate records of all estate matters. Registers are not allowed to provide legal advice.

Registers take in revenues from inheritance taxes and processing fees. These revenues are used to pay the operating costs of the offices. Excess revenues are reverted to the general fund. Fiscal 2002 revenue and expense information for the ROW offices appears in **Appendix 3**. In the event that expenditures exceed revenues, the Comptroller can provide a deficiency supplement that is appropriated by the General Assembly or authorize the retention of additional inheritance taxes.

The Comptroller verifies the bond of the registers, sets salaries, approves procurements, audits receipts, and administers the State supplement. This budget reflects the Comptroller's estimate of funding needed to cover the anticipated deficiencies for fiscal 2003. Funds not used for this purpose are reverted to the general fund.

Fiscal 2003 Actions

Impact of Cost Containment

There were no cost containment reductions taken in the ROW fiscal 2002 budget appropriation. Any reduction in the appropriation would have no fiscal impact, as revenue attainment would be reduced to offset any reductions in the appropriation. The appropriation is primarily used to provide a working fund at the beginning of the fiscal year before revenues are collected.

Governor's Proposed Budget

The Governor's fiscal 2004 allowance is \$75,000 in general funds, the same amount appropriated in fiscal 2002 and 2003. Some individual ROW experience temporary deficiencies at the beginning of each fiscal year, before inheritance tax revenue is generated. The annual \$75,000 appropriation acts to bridge this gap in the first weeks of the fiscal year, as shown in **Exhibit 1**.

The general fund appropriation for anticipated deficiencies insures that the ROW reports to the General Assembly each year. As indicated in **Appendix 1**, there was a reversion of \$15,884 in fiscal 2002. However, as shown in Appendix 3, ROW offices in 11 local jurisdictions could not meet their operating

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expenses from the inheritance tax revenues retained by their offices. Although the deficient amount from the 11 counties is in excess of the \$59,116 spent in the fiscal 2002 appropriation, Section 2-205 of the Estates and Trusts Article provides that if the fees and receipts of any ROW shall be insufficient in any year to pay all or any part of the authorized salaries and expenses of all ROW, the deficiency shall be funded from the taxes remitted to the Comptroller of the Treasury by the register during that fiscal year. In the event that tax collections for the fiscal year are insufficient, the Comptroller shall make up the deficit from excess fees remitted from all other registers. In fiscal 2002 only Garrett County, with expenses of \$230,455, exceeded total receipts from the inheritance tax and fees, which were \$171,339 in fiscal 2002.

Exhibit 1

**Registers of Wills Expenditure History
Fiscal 1998 through 2002**

<u>Fiscal Year</u>	<u>Appropriation</u>	<u>Actual</u>
2002	\$75,000	\$59,116
2001	75,000	18,539
2000	75,000	75,000
1999	75,000	75,000
1998	75,000	75,000

Source: Department of Legislative Services

Impact of Cost Containment

No cost containment action was imposed on the Registers of Wills in the Governor's Budget.

Recommended Actions

1. Concur with Governor's allowance.
2. Add the following language:

. provided, except for the salary of the elected Register of Wills official, no part of this appropriation or State funds provided under Section 2-205 of the Estates and Trust Article shall be used to increase the salary of any employee in any register of wills office or to provide a State match for employee 401k contribution or pay operating expenses of any register of wills office in excess of that incurred in fiscal 2002 plus 2.5 percent.

Explanation: This action prohibits salary increases except for the elected Register of Wills term official, eliminates the State \$600 match for employee 401k contributions, and limits increases in the operating expenses to the fiscal 2002 level plus 2.5 percent, consistent with spending affordability guidelines and cost containment action imposed on other State agencies.

Updates

1. Salary Plan for Registers of Wills

The Board of Public Works (BPW) approved the salary plan for the 24 elected ROW on October 30, 2002, consistent with Chapter 494, Acts of 2002 that raised the maximum salary from \$75,000 to \$85,000.

By law, BPW must determine the annual salary of each ROW for their new term of office. ROW are elected officials and under the State Constitution, as term officials, must have their salary determined before they assume office. Salaries of the ROW cannot be increased during the term of office except as predetermined before the ROW assume office. The Attorney General (AG) has indicated in previous opinions that this restriction would not preclude an annual salary increase so long as the salary increase is predetermined before the official assumes office. Section 2-205, Estates and Trusts Article, raised the maximum salary that may be paid to a register from \$75,000 to \$85,000.

Section 2-205 specifies in determining each register's salary, the board shall be guided by:

- county population;
- dollar volume of total fees and taxes collected, excess fees turned over to the State; and
- other pertinent data which are related to the reasonableness of the salary in relation to the work done.

Exhibit 2 provides the statistical data used to determine each register's salary and the salary for the 24 ROW for each year of office approved by BPW on October 30, 2002. The salaries were phased in over a three-year period. The salary plan for the clerks of the circuit court, approved by BPW, adopted a similar phased-in salary plan for the clerks.

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**Registers of Wills – Salary Plan
2003 through 2006**

<u>Jurisdiction</u>	<u>Statistical Data</u>					<u>BPW Approved salary</u>			
	<u># of Regular Estates</u>	<u># of Small Estates</u>	<u>Docket Entries</u>	<u>Revenues Collected</u>	<u>Population</u>	<u>Previous Salary</u>	<u>Salary 12/01/02</u>	<u>Salary 12/01/03</u>	<u>Salary 12/01/04</u>
Caroline	75	125	3,245	3,573,312	29,772	65,600	69,950	72,125	74,300
Garrett	52	125	4,275	183,743	29,846	65,600	69,950	72,125	74,300
Kent	80	66	3,398	829,415	19,197	65,600	69,950	72,125	74,300
Somerset	36	116	3,624	336,502	24,747	65,600	69,950	72,125	74,300
Allegany	193	422	9,270	1,034,990	74,930	69,100	73,700	76,000	78,300
Calvert	128	139	6,362	696,846	74,563	69,100	73,700	76,000	78,300
Cecil	170	190	6,015	598,249	85,951	69,100	73,700	76,000	78,300
Dorchester	91	138	4,567	963,580	30,674	69,100	73,700	76,000	78,300
Queen Anne's	94	96	4,797	525,754	40,563	69,100	73,700	76,000	78,300
St. Mary's	116	204	8,011	892,222	86,211	69,100	73,700	76,000	78,300
Talbot	156	134	8,247	932,760	33,812	69,100	73,700	76,000	78,300
Wicomico	158	251	4,280	770,717	84,644	69,100	73,700	76,000	78,300
Worcester	130	183	8,839	807,510	46,543	69,100	73,700	76,000	78,300
Carroll	302	362	8,584	3,058,882	150,897	71,500	76,250	78,625	81,000
Charles	158	266	11,685	529,531	120,546	71,500	76,250	78,625	81,000
Frederick	342	496	12,590	2,530,141	195,277	71,500	76,250	78,625	81,000
Harford	350	601	12,077	3,814,065	218,590	71,500	76,250	78,625	81,000
Howard	328	367	11,378	2,452,272	247,842	71,500	76,250	78,625	81,000
Washington	300	461	11,662	2,883,985	131,923	71,500	76,250	78,625	81,000
Anne Arundel	799	1,062	27,219	5,267,763	489,656	75,000	80,000	82,500	85,000
Baltimore	1,837	2,466	57,930	15,431,138	754,292	75,000	80,000	82,500	85,000
Baltimore City	900	2,431	65,370	8,757,182	651,154	75,000	80,000	82,500	85,000
Montgomery	1,642	1,204	66,069	16,591,517	873,341	75,000	80,000	82,500	85,000
Prince George's	1,056	1,591	68,030	6,391,513	801,515	75,000	80,000	82,500	85,000

Source: Comptroller proposed salary plan adopted by Board of Public Works October 30, 2002, as Item 4 on the Board of Public Works Secretary's Agenda

2. Revenues and Expenses of the Registers of Wills

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Chapter 497, Acts of 2000 eliminated the inheritance tax for lineal beneficiaries and siblings. ROW expenses are supported in part by general funds raised by this direct inheritance tax. Fiscal 2002 was the first year to reflect the legislation's full impact. Appendix 3 provides a summary of the revenue and expenses of the ROW for the period ending June 30, 2002. The impact of the legislation is that more ROW offices were unable to cover expenses with the revenue retained by the ROW office. A ROW office may retain 25% of total receipts to cover expenses of the office. In fiscal 2002, 11 offices were unable to cover expenses of the office with the revenue retained by the office. In the past, four to five offices were unable to cover expenses by the revenues retained by the office. Additionally, in Garrett County, revenues of \$171,339 failed to cover the counties expenses of \$230,455.

Current and Prior Year Budgets

Current and Prior Year Budgets Registers of Wills (\$ in Thousands)

	<u>General Fund</u>	<u>Special Fund</u>	<u>Federal Fund</u>	<u>Reimb. Fund</u>	<u>Total</u>
Fiscal 2002					
Legislative Appropriation	\$75	\$0	\$0	\$0	\$75
Deficiency Appropriation	0	0	0	0	0
Budget Amendments	0	0	0	0	0
Reversions and Cancellations	-16	0	0	0	-16
Actual Expenditures	\$59	\$0	\$0	\$0	\$59
Fiscal 2003					
Legislative Appropriation	\$75	\$0	\$0	\$0	\$75
Budget Amendments	0	0	0	0	0
Working Appropriation	\$75	\$0	\$0	\$0	\$75

Note: Numbers may not sum to total due to rounding.

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Object/Fund Difference Report Registers of Wills						
<u>Object/Fund</u>	<u>FY02 Actual</u>	<u>FY03 Working Appropriation</u>	<u>FY04 Allowance</u>	<u>FY03 - FY04 Amount Change</u>	<u>Percent Change</u>	
	Objects					
12 Grants, Subsidies, Contributions	\$ 59,116	\$ 75,000	\$ 75,000	\$ 0	0%	
Total Objects	\$ 59,116	\$ 75,000	\$ 75,000	\$ 0	0%	
Funds						
01 General Fund	\$ 59,116	\$ 75,000	\$ 75,000	\$ 0	0%	
Total Funds	\$ 59,116	\$ 75,000	\$ 75,000	\$ 0	0%	

Note: Fiscal 2003 appropriations and fiscal 2004 allowance do not include cost containment and contingent reductions.

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State of Maryland Revenues and Expenses of the Registers of Wills
Fiscal 2002

County	FY 2002 Total Receipts	FY 2002 Tax Remitted to General Funds	Revenues Retained by Register	Total Operating Expenses	Excess Fees of Office
Allegany	\$1,036,191	\$707,336	\$328,855	\$369,312	(\$40,457)
Anne Arundel	5,206,503	3,534,027	1,672,475	1,152,204	520,271
Baltimore	15,454,670	10,613,422	4,841,249	2,056,316	2,784,933
Calvert	673,109	436,056	237,053	326,838	(89,785)
Caroline	339,304	225,437	113,868	228,317	(114,450)
Carroll	3,070,170	2,153,665	916,505	273,634	642,871
Cecil	559,674	347,258	212,416	332,676	(120,260)
Charles	529,183	334,324	194,859	379,427	(184,568)
Dorchester	963,836	675,836	288,001	219,876	68,125
Frederick	2,479,175	1,702,515	776,660	424,251	352,409
Garrett	171,339	109,799	61,540	230,455	(168,915)
Harford	3,823,026	2,740,313	1,082,713	336,769	745,944
Howard	2,380,099	1,625,142	754,957	415,217	339,740
Kent	832,722	573,952	258,770	221,377	37,393
Montgomery	15,132,887	10,429,443	4,703,445	2,174,567	2,528,878
Prince George's	6,220,126	4,278,934	1,941,192	1,482,118	459,074
Queen Anne's	494,568	329,559	165,009	276,998	(111,989)
St. Mary's	885,116	597,234	287,882	322,794	(34,912)
Somerset	327,421	230,140	97,281	193,127	(95,846)
Talbot	890,633	586,006	304,628	359,256	(54,629)
Washington	1,861,054	1,268,680	592,374	345,004	247,370
Wicomico	766,432	504,009	262,423	316,478	(54,055)
Worcester	808,609	549,251	259,357	240,583	18,774
Baltimore City	8,684,750	6,062,695	2,622,055	1,804,053	818,002
	\$73,590,597	\$50,615,032	\$22,975,566	\$14,481,647	\$8,493,919

Note: Fiscal 2003 appropriations and fiscal 2004 allowance do not include cost containment and contingent reductions.

Source: Comptroller of the Treasury