

Department of Legislative Services  
2010 Session

FISCAL AND POLICY NOTE

House Bill 1357  
Appropriations

(Delegate Boteler, *et al.*)

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**Professional Boards - Transfer of Funds - Repayment**

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This bill generally prohibits (1) the Governor from transferring money in a professional fund to the State's general fund; and (2) the General Assembly from authorizing the Governor to transfer money in a professional fund to the State's general fund. A "professional fund" means a fund or account established to receive fees, dues, or other payments from members of a profession and dedicated for use in the regulation or activities of the profession. However, money in a professional fund may be transferred to the general fund if the funds are restricted by law to a purpose related to the profession. If the Governor transfers money in a professional fund to the State's general fund, the Governor must include an appropriation to repay the money in the annual budget bill for the following fiscal year.

The bill takes effect June 1, 2010.

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**Fiscal Summary**

**State Effect:** To the extent special fund revenues from professional funds are transferred to the general fund for unrelated purposes, general fund expenditures increase in the subsequent fiscal year. **This bill establishes a mandated appropriation to repay any such transferred funds.**

**Local Effect:** The bill does not affect local government operations or finances.

**Small Business Effect:** To the extent this bill prevents professional funds from being transferred to the general fund, small businesses in affected professional areas may benefit.

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## Analysis

**Current Law:** Numerous State regulatory boards and commissions are supported by fee revenue from the professionals they regulate. Some boards and commissions are supported by general funds, as fee revenue accrues to the general fund. However, others have dedicated special funds, where fee revenue is deposited and from which most or all costs are paid. For example, all but one of the health occupations boards in the Department of Health and Mental Hygiene (DHMH) are special funded; the Maryland Department of Agriculture's State Board of Veterinary Medical Examiners is special funded; most regulatory boards in the Department of Labor, Licensing, and Regulation are general funded but some are special funded. The Maryland Insurance Administration's (MIA) Insurance Regulation Fund is a special fund supported in part by fees from licensed insurance providers.

The Board of Physicians must submit all fees collected to the Comptroller of the State. If the Governor does not include in the State budget at least \$750,000 for the operation of the Health Personnel Shortage Incentive Grant Program and the Janet L. Hoffman Loan Assistance Repayment Program, as administered by the Maryland Higher Education Commission, the Comptroller must distribute 12% of the fee revenue to these two programs and the remaining balance to the Board of Physicians Fund.

**Background:** Regulatory boards and commissions, supported by fee revenue from the community they regulate, often have their own nonlapsing special fund. The licensing activities of some of these entities may occur on a biennial basis; consequently, revenues may be alternatively high in one year and low in the other. The ability to carryover a fund balance allows boards and commissions to save money for large planned expenditures, address unanticipated expenditures, and keep fees at the same level for several years.

Budget reconciliation legislation in the past proposed transfers from board and commission special funds to the general fund, and some of these proposed transfers were ultimately implemented. Such transfers took place a limited number of times, and repayment from the general fund to the special fund for the transfer was not provided. For example, Chapter 487 of 2009 authorized the following transfers to the general fund in fiscal 2009: \$3.2 million from the Board of Physicians Fund; \$500,000 from the Board of Nursing Fund; \$2.0 million from the Maryland Health Care Commission Fund; and \$1.6 million from MIA's Insurance Regulation Fund.

**State Fiscal Effect:** In the Budget Reconciliation and Financing Act of 2010 (Senate Bill 141/House Bill 151), the Administration proposes transferring a total of \$1.1 billion in fiscal 2010 and 2011 special and nonbudgeted fund balances to the general fund to help balance the budget. Included among these proposed fund transfers are transfers from boards and commissions that may be prohibited or require repayment

under this bill, as summarized in **Exhibit 1**. SB 141/HB 151 proposes transferring \$1.7 million from DHMH professional funds related to employee furloughs and \$2.0 million from MIA’s Insurance Regulation Fund to the general fund in fiscal 2010. In addition, SB 141/HB 151 proposes transferring \$1.3 million from DHMH professional funds to the general fund in fiscal 2011. Exhibit 1 also illustrates the balance of DHMH boards affected by SB 141/HB 151. The health occupations boards have set a target fund balance between 20% and 30% of expenditures needed for operations of the board for unexpected costs.

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**Exhibit 1**  
**SB 141/HB 151 – Transfers of Special Fund Balances (from “Professional Funds”)**  
**to the General Fund and Projected End-of-year Balances**  
**Fiscal 2010 and 2011**

	<b>Fiscal 2010</b>		<b>Fiscal 2011</b>	
	<u><b>Transfer</b></u>	<u><b>Ending Balance</b></u>	<u><b>Transfer</b></u>	<u><b>Ending Balance</b></u>
<b>Dept. of Health and Mental Hygiene</b>				
Physicians	\$527,619	\$3,743,344	\$1,000,000	\$2,623,852
Health Care Comm. Fund	472,026	2,200,000		
Nursing	305,549	1,525,892		
Pharmacy	98,544	901,977	200,000	811,208
Dental	73,530	535,696		
Social Work Examiners	52,097	143,285		
Chiropractic	36,128	284,092		
Psychologists	23,718	276,394	50,000	203,474
Professional Counselors	22,013	330,492	50,000	193,789
Physical Therapy	17,567	385,679		
Audiologists	13,698	352,124		
Occupational Therapy	11,923	58,143		
Optometry	9,837	68,571		
Acupuncture	9,666	40,986		
Morticians	9,566	177,066		
Podiatric	7,283	104,677		
Kidney	4,092	91,523		
Dietetic Practice	3,738	(3,690)		
<b>Maryland Insurance Administration</b>				
Insurance Regulation Fund	\$2,000,000	\$1,500,000		

Source: Department of Legislative Services

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The fiscal 2010 DHMH transfers represent the boards' contributions to the statewide furlough and the resulting reductions to general operating expenses. As shown in Exhibit 1, all of the boards, except the State Board of Dietetic Practice, are expected to have positive fund balances at the end of fiscal 2010.

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### **Additional Information**

**Prior Introductions:** HB 1431 of 2009 received an unfavorable report from the House Appropriations Committee.

**Cross File:** None.

**Information Source(s):** Department of Budget and Management; Department of Health and Mental Hygiene; Department of Labor, Licensing, and Regulation; Department of Legislative Services

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