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FISCAL AND POLICY NOTE
Revised

House Bill 831
Economic Matters

(Delegate Branch, *et al.*)
Education, Health, and Environmental Affairs

Baltimore City - Alcoholic Beverages Act of 2014

This emergency bill provides for the appointment of three regular members and one alternate member to the Baltimore City Board of Liquor License Commissioners (BLLC) by the Governor by May 30, 2014.

The bill also makes significant changes to provisions governing the operations of BLLC and makes changes to the issuance, transfer, and renewal of licenses, including changes to the collection and allocation of BLLC revenues. These provisions take effect July 1, 2014.

Fiscal Summary

State Effect: None. The Office of Legislative Audits (OLA) can likely implement the bill's changes with existing budgeted resources. The bill's penalty provision does not materially affect State finances.

Local Effect: Baltimore City expenditures increase by about \$175,000 in FY 2015 only to digitize BLLC records. The \$16,000 per year salary for an alternate board member and cost-of-living adjustments for BLLC employees can be handled with existing budgeted resources. The bill's changes also likely provide operational efficiencies for BLLC. Any effects on BLLC revenues resulting from the bill's changes cannot be reliably quantified.

Small Business Effect: Minimal.

Analysis

Bill Summary: Under the bill's emergency provisions, each appointee to BLLC must be a resident and voter of Baltimore City, with high character and integrity and of recognized business capacity. At least one appointee must be a member of the Maryland Bar. The term of the members begins on July 1, 2014, is two years in length, and is staggered, as specified. At the end of a term, a member continues to serve until a successor is appointed. A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed.

The bill's provisions that take effect July 1, 2014, adopt many of the recommendations of an audit of BLLC by OLA conducted in 2013, including:

- An enumeration of the requirements for the completion of a license application, including a statement that an application for the issuance, transfer, or renewal is not complete unless the applicant has (1) obtained zoning approval or verification of zoning if the application is for renewal; (2) submitted all documents required in the application; and (3) paid all fines and fees that are due.
- A requirement that the board impose a fine that it determines for failure to comply with licensing requirements.
- A requirement that changes to an already completed license application be submitted not later than 15 days before a scheduled hearing. After the hearing on the application, an applicant may change the application only at a new hearing.
- A detailing of requirements for a hearing by the board, including that the board must (1) starting on July 1, 2015, digitize and post online all records for public review and (2) adopt related regulations.
- A prohibition against a board member soliciting or reviewing directly or indirectly or on behalf of another person, a commission, political contribution, remuneration or gift, from (1) a person engaged in the manufacture, distribution, or sale of alcoholic beverages or (2) an agent or employee of a person engaged in the manufacture, distribution, or sale of alcoholic beverages. A board member must comply with Baltimore City public ethics laws and financial disclosure provisions enacted by the Mayor and the Baltimore City Council.
- Creating an alternate board member and establishing minimum salaries for all board members, as specified.

- A requirement that the board annually establish performance measures using the Citistat program of the City of Baltimore for such activities as financial management, issuance of licenses, and enforcement of alcoholic beverages laws. Upon request, the performance accountability reports must be submitted to OLA.
- A requirement that, before the board adopts a regulation, the board provide at least a 30-day period for public comment and obtain a review by the City Solicitor to ensure that the regulation complies with the authority granted to the board by the State. Regulations adopted by the board must be posted online, and the board must renew its regulations by October 31, 2015, and at least once every five years thereafter, as specified.
- A repeal of the requirement that the executive secretary or the deputy executive secretary must be a member of the Maryland Bar.
- Establishing that employees and members of the board are deemed local officials in Baltimore City under specified provisions of the State Government Article.

Current Law/Background: BLLC is an agency of the State of Maryland and not subject to the direct supervision of the Mayor and the Baltimore City Council. BLLC operations are governed by Article 2B of the Annotated Code and by Subtitle 1 of Article 15 of the Baltimore City Code for the licensing and regulation of adult entertainment businesses. The board consists of three members; there is no alternate board member. BLLC is responsible for processing applications for and renewals of licenses to sell beer, wine, and liquor; conducting periodic inspections of businesses licensed to sell alcoholic beverages; collecting all license fees and fines; fining, suspending, or revoking the licenses of violators of alcoholic beverage laws; and licensing and regulating adult entertainment businesses in Baltimore City. BLLC also issues licenses for special events (such as one-day licenses for beer and wine festivals).

Although BLLC is a State agency, all revenues from licenses, fines, and late fees are paid to Baltimore City's Director of Finance, and all BLLC expenditures are paid by the city. Furthermore, BLLC is included in Baltimore City's annual budget and its financial activity is included in the city's Comprehensive Annual Financial Report.

Chapter 263 of 2011 requires OLA, at least once every three years, to conduct a performance audit of BLLC to evaluate the effectiveness and efficiency of the management practices of BLLC and the economy with which BLLC uses resources. The audit is required to focus on operations relating to licensing, inspections, disciplinary procedures, and management oversight.

The March 2013 OLA audit report found that there were approximately 1,360 alcoholic beverage and adult entertainment licenses as of December 1, 2011, and that annual fees for these licenses ranged from \$82.50 to \$12,000 depending on the type of license. According to city records, fiscal 2012 revenues and expenditures totaled \$2.2 million and \$2.0 million, respectively. At the time of the OLA audit, BLLC had 25 full-time staff, which included 3 executive staff, 3 supervising inspectors, 14 full-time inspectors (including 2 who perform investigations), and 5 support staff; BLLC also had 5 part-time inspectors.

The OLA audit made 24 specific findings and recommendations involving licensing, inspections, disciplinary procedures, and management oversight. This bill reflects many of those findings and recommendations. The full audit report, which also contains an agency response from BLLC, is available online at:

<http://www.ola.state.md.us/Reports/Performance/BLLC13.pdf>

Local Fiscal Effect: Baltimore City advises that the bill's changes can largely be accommodated with existing budgeted resources. The cost to digitize the BLLC records is estimated to total \$175,000 in fiscal 2015 only for contractual services with a Baltimore City computer operations vendor. The cost for the new alternate board member increases annual BLLC expenditures by \$16,000. The bill's cost-of-living adjustments are already factored into BLLC's budget.

Baltimore City assumes that the bill's changes also provide operational efficiencies for BLLC. For example, the addition of an alternate board member should make it easier to obtain quorums for board meetings.

Any effects on BLLC revenues resulting from the bill's changes cannot be reliably quantified without any direct experience under the bill.

The bill's penalty provision is not anticipated to materially affect local finances.

Additional Information

Prior Introductions: None.

Cross File: SB 846 (Senator Jones-Rodwell) - Education, Health, and Environmental Affairs.

Information Source(s): Baltimore City, Department of Legislative Services

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