



# Ohio Legislative Service Commission

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## Fiscal Note & Local Impact Statement

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**Bill:** [H.B. 410 of the 130th G.A.](#)

**Date:** March 11, 2014

**Status:** As Introduced

**Sponsor:** Rep. Grossman

**Local Impact Statement Procedure Required:** No

**Contents:** Revises Cosmetology Licensing Law

### State Fiscal Highlights

- **Hair braiding and hair threading.** The bill establishes a series of new licenses that apply to the branches of hair braiding and hair threading under the field of cosmetology. Applicants under these various license types would be charged the \$45 initial license fee and \$45 renewal fee under the Ohio State Board of Cosmetology's existing fee structure. The Board estimates there are between 800 and 1,000 hair braiders and between 300 and 400 hair threaders in Ohio. It is unclear how many of these individuals will apply for licensure under the various new categories in the bill.
- **License restoration fee.** The bill specifies that the license restoration fee under the State Board of Cosmetology's license amnesty program be deposited into the Occupational Licensing and Regulatory Fund (Fund 4K90). Currently, these proceeds are deposited into the GRF. The Board collected \$127,000 in license restoration fees under the program during the previous two fiscal years.
- **Expanded investigatory and disciplinary authority.** The bill expands the authority of the Board with respect to investigations and issuing subpoenas. These provisions could result in an increase in investigations, with possible increases in disciplinary actions and administrative hearings. Presumably, some of the costs the State Board of Cosmetology will incur for carrying out these expanded responsibilities could be offset by additional fees and fines collected as a result of the additional investigations and disciplinary actions.

### Local Fiscal Highlights

- No direct fiscal effect on political subdivisions.

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## Detailed Fiscal Analysis

### Overview

The Ohio State Board of Cosmetology is responsible for the regulation of cosmetology-related occupations and facilities. Overall, the Board issues 23 different license types. During the FY 2012-FY 2013 biennial renewal cycle, the Board oversaw between 119,000 and 127,000 active individuals and facility licenses in each fiscal year. Over this period, the Board collected approximately \$9.3 million in revenues and had expenditures totaling \$7.0 million. The Board currently maintains a staff of 39 employees. The Board is supported by various cosmetology license fees deposited into the Occupational Licensing and Regulatory Fund (Fund 4K90).

The bill makes numerous revisions to the cosmetology laws. These changes cover several areas, including new licenses, education requirements, testing requirements, investigative authority and subpoena power, and other various oversight functions of the State Board of Cosmetology. The provisions of the bill that have fiscal effects are described in more detail below.

### License fees

#### New hair braiding and hair threading licenses

The bill establishes new fees in the areas of hair braiding and hair threading. In regard to braiding, the bill establishes licensing requirements for braiders, braiding instructors, salon managers, and salons. In regard to threading, the bill establishes licensing requirements for threaders, threading instructors, managers, and salons. The \$45 initial license fee and \$45 renewal fee for these license types fall under the fee structure already applicable to other branches of cosmetology. The Board estimates that there are approximately 800 to 1,000 individuals currently working as hair braiders in the state and approximately 300 to 400 individuals currently working as hair threaders. The amount of revenue generated by these new licenses will ultimately depend on how many of these individuals opt to acquire the required licenses and what specific licenses they choose to obtain.

#### License restoration

The bill modifies fees and also redirects the proceeds collected under the State Board of Cosmetology's license amnesty program. Under current law, an individual that has allowed his or her license to lapse for more than one license period may restore the license by paying back fees, fulfilling continuing education requirements, and taking an online exam, in addition to paying a \$30 fee. Unlike other fees collected by the Board, this \$30 restoration fee is deposited into the GRF. The bill revises the current arrangement by requiring the licensee to pay an amount equal to the sum of the current renewal fee (\$45); any applicable late fee, and if one or more renewal periods have elapsed since the license was valid, the lapsed renewal fees for not more than three

renewal periods. The bill also redirects the fees from the GRF to Fund 4K90. According to the Board, receipts collected under the amnesty program over the previous two fiscal years were \$127,000.

### **Managing license**

The bill makes changes to the definition of a managing license that could result in a substantial increase in license fee revenue collected by the Board. Under current law, a managing license is defined to mean "a license to manage a salon and practice the branch of cosmetology practiced at the salon." The bill changes the definition to mean "a license to manage a salon offering a branch of cosmetology appropriate to the license." Under this change, if individuals with managing licenses would also have to obtain an additional license to practice in their area, the Board could see a significant increase in license revenue. According to the Board, in FY 2013 there were approximately 59,600 active managing licenses. License fee revenue is deposited into Fund 4K90.

### **Installment plan**

The bill provides statutory authority for the Board to establish an installment plan for the payment of fines and fees and to reduce fees as considered appropriate by the Executive Director. Specifically, the bill permits the Board to extend the due date for a fee payment by up to 90 days, either at the request of a person who is temporarily unable to pay a fee or on the Board's own motion. If the fee remains unpaid after the due date, the amount of the fee must be certified to the Ohio Attorney General for collection. Currently, the Board has an installment plan for the payment of fines, but not for the payment of fees. As a consequence of this change in the bill, the Board will continue to collect anticipated revenue, but the receipts could be deferred for a longer time than they are now.

## **Powers and duties of the Board**

### **Additional powers**

The bill permits the Board, on its own motion or on receipt of a written complaint, to investigate or inspect the activities or premises of any person who is alleged to have violated the statutes or rules governing the practice of cosmetology, regardless of whether that person is licensed by the Board. The bill also gives the Board the authority to compel, by order or subpoena, the attendance of witnesses to testify in relation to any matter over which the Board has jurisdiction that is subject to an inquiry or investigation by the Board.

As a result of this expanded authority, the Board estimates that it may conduct as many as 1,000 additional inspections throughout the course of a calendar year. Currently, the Board has 12 inspectors on staff. Depending on the additional inspection and enforcement actions undertaken by the Board, there will be some additional costs related to travel for conducting these inspections. In FY 2012, there were 12,364 random inspections, resulting in 2,381 notices of violation and approximately \$460,000 collected

from violations. In FY 2013, the Board collected just over \$553,000 in fines and penalties for various violations, conducted 10,952 random inspections, and issued 1,370 notices of violation.

The power to subpoena could also result in additional costs for the Board. Under the bill, an individual that is subpoenaed to testify must be compensated in the same manner that exists in current law for all witnesses required to attend an adjudication hearing (\$12 for each full day's attendance, \$6 for each half day's attendance, and 50 cents per mile). If a person fails to appear in compliance with the subpoena, a court of common pleas is permitted to issue a subpoena compelling appearance before the court.

### **Disciplinary actions**

The bill establishes two new reasons for which the Board may take disciplinary action: (1) failure to cooperate with an inspection or investigation, and (2) failure to respond to a subpoena. The Board is permitted to take one or more disciplinary actions based on these offenses, such as denying, revoking, or suspending a license or permit, and imposing a fine. With the new licenses, increased powers established in the bill, and probable increase in investigations that will be conducted, it is likely that the Board will be taking more disciplinary actions. Consequently, there will be additional costs associated with conducting more administrative hearings; however, these costs will likely be offset to some degree by fees and fines collected.

### **Administrative notifications**

The bill authorizes the Board, in addition to the methods of notification required under the Administrative Procedure Act, to send required notices by any delivery method that is traceable and requires that the delivery person obtain a signature to verify that the notice has been delivered. The Board also may send the notice by electronic mail if the electronic mail delivery system certifies that a notice has been received. The electronic mail method could result in some cost savings in mailing fees for the Board.

### **Licensure reporting**

The bill requires, one year after the effective date of the bill, and for the next two years thereafter, that the Board of Cosmetology submit a written report to the Governor and General Assembly concerning statistics about the new threader and braider licenses created under the bill. Specifically, the report is required to provide information regarding (1) the number of students enrolled in courses at licensed schools of cosmetology that are required for each of the new licenses created in the bill, (2) the number of applications received, (3) the number of licenses issued for each of these new license types, (4) the number of complaints received regarding holders of these new licenses, (5) the number of investigations, and (6) the disciplinary actions taken resulting from these new licensees. While the Board likely would have this data compiled as a whole for all license types it regulates, there could be some minimal

administrative effort associated with determining how much of the data compiled from the six above categories is attributable to the new licenses created in the bill.

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