



# Ohio Legislative Service Commission

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## Fiscal Note & Local Impact Statement

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**Bill:** S.B. 213 of the 131st G.A.

**Date:** May 18, 2016

**Status:** As Passed by the House

**Sponsor:** Sens. Jordan and Tavares

**Local Impact Statement Procedure Required:** No

**Contents:** Includes "boutique services" among the list of activities regulated by the State Board of Cosmetology and makes other changes

### State Fiscal Highlights

- The bill establishes "boutique services" as a separate branch of cosmetology and requires practitioners to register with the State Board of Cosmetology. Under the bill, boutique salons must also be licensed by the Board and pay a \$75 license fee. Operational costs and revenues could increase depending on the number of practitioners and salons that register and license with the Board. Operational costs of the Board are supported by the Occupational Licensing and Regulatory Fund (Fund 4K90).
- The bill eliminates managing licenses for all branches of cosmetology which may result in a loss of examination revenue collected by the Board. Under current law the Board collects approximately \$98,000 per year in examination fees for managing licenses.
- The bill expands the enforcement authority of the Board to include individuals and entities alleged to be practicing cosmetology that are not licensed by the Board, establishes prohibited activities, and modifies limitations on fines issued by the Board. These changes may have fiscal effects depending on the number and nature of enforcement actions taken by the Board.
- The Board would incur new administrative costs to develop an exam and curriculum for individuals seeking an instructor license in any branch of cosmetology. These costs could be partially offset by fees to issue instructor license applicants temporary pre-exam work permits. However, fully offsetting any new costs would be unlikely due to the small number (approximately 44) of applicants each year. Under the bill, the fee for a temporary pre-exam work permit is \$7.50.

## Local Fiscal Highlights

- The bill creates misdemeanor prohibitions against certain activities, including practicing a branch of cosmetology in a location other than a licensed facility or using cosmetology to treat a physical or mental ailment. It is unlikely that many such cases would be prosecuted. Any increased costs for courts to hear these cases would be minimal at most.
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## Detailed Fiscal Analysis

The State Board of Cosmetology establishes and maintains sanitary and professional standards in the beauty salon industry, and ensures the health, safety, and sanitation of the industry's patrons through licensing and regulation of salons and individual licensees. The bill makes several changes to the Cosmetology Law that could impact revenues collected and costs paid by the Board. Potential fiscal effects are discussed under the headings below. All Board activities are supported by the Occupational Licensing and Regulatory Fund (Fund 4K90).

### **Boutique services**

The bill establishes "boutique services" as a separate branch of cosmetology and places regulatory authority over these services with the State Board of Cosmetology. Under the bill, boutique services include braiding, threading, shampooing, and any other beauty service considered by the Board to be a boutique service. Under the bill, individuals practicing boutique services would be required to register with the Board. Additionally, the bill requires boutique salons, salons in which only boutique services are provided, to be licensed by the Board. Under the bill, the license fee for a boutique salon is set at \$75. As a result, there would likely be a gain in license revenue collected and an increase in costs paid by the Board.

Placing regulatory authority over boutique services with the Board would increase administrative, inspection, and investigatory costs. However, it is difficult to determine the extent of any increase in these costs. This is because under current law no regulatory authority oversees the practice of boutique services and the numbers of practitioners and boutique salons is unknown. Any increase in costs may be at least partially offset by a gain in license revenue collected from boutique salon licenses.

### **Advanced cosmetology licenses**

The bill eliminates managing licenses for all branches of cosmetology and replaces them with "advanced" licenses. Under the bill, an advanced licensee generally has the same privileges and responsibilities of a managing licensee under current law. Because there is no difference in license fees for practicing, managing, or advanced licenses, replacing managing licenses with advanced licenses would not directly have any fiscal effect. However, the Board may incur a loss in examination fee revenue.

Currently, individuals applying for a managing license must pass a Board-administered examination and pay an examination fee of \$31.50. Although the bill allows the Board to administer an examination and charge an examination fee for an advanced license, it is difficult to determine the number of individuals that would apply for an advanced license. Under current law a managing licensee must be present in a salon whenever salon services are being performed. The bill removes this requirement and as a result it is unclear how, in practice, an advanced license differs from a practicing license, thus making demand for advanced licensure uncertain. According to the Board, more than 3,100 individuals apply for managing licenses each year with the resulting examination fee revenue totaling nearly \$98,000 annually.

### **Cosmetology instructor exams and pre-exam work permits**

Under current law, individuals seeking an instructor license in any branch of cosmetology must meet certain requirements including certified work experience or certified training. Under the bill, in addition to these requirements, individuals seeking an instructor license would be required to pass a Board-administered exam. The bill requires the Board to create the exam and exam curriculum within two years of the bill's effective date. Under the bill, instructor license applicants that have not yet passed the exam, but who otherwise meet the continuing law requirements, may work as an instructor under a Board-issued temporary pre-exam work permit.

The Board will likely incur new administrative costs to develop the exam and curriculum. New costs could be partially offset by a gain in revenue from issuing temporary pre-exam work permits, although fully offsetting those costs is unlikely due to the small number of applicants each year that would require a temporary pre-exam work permit. Between calendar years 2010 and 2015 the Board, on average, issued about 44 new instructor licenses each year. Under the bill, temporary pre-exam work permits are \$7.50.

### **Enforcement**

#### **Inspections**

The bill permits the Board, on its own motion or on receipt of a complaint, to investigate or inspect the activities or premises of any individual or entity that is alleged to have violated the Cosmetology Law. Under current law, this authority is limited to inspections and investigations of individuals and entities licensed by the Board. This expansion of investigatory authority to include nonlicensed individuals and entities could result in increased costs paid and gains in fine revenues collected by the Board depending on the number and nature of complaints investigated and cases adjudicated.

#### **Prohibited activities**

The bill creates prohibitions against certain activities for which violators may be subject to criminal penalties. First, the bill prohibits an individual from practicing a branch of cosmetology in a location other than a licensed facility unless the individual or practice is exempt from the Cosmetology Law. The bill also prohibits an individual

from using cosmetology to treat or attempt to cure a physical or mental disease or ailment. Under the bill, whoever violates one of these prohibitions is guilty of a fourth degree misdemeanor for a first offense, and a third degree misdemeanor for each subsequent offense. As a result, there could be some increase in caseloads handled by local courts and, if prosecutions of prohibited activities violations result in convictions, there could also be an increase in costs paid by counties to jail those found guilty. However, it is unlikely that many cases would be prosecuted and any increased costs would likely be minimal at most.

### **Fines**

The bill modifies the limits on fines that may be issued for violations that are discovered as the result of an inspection as shown in the table below. Additionally, the bill makes other changes affecting the collection of fines levied by the Board, including specifying time frames by which violators must pay the fine and the addition of a 10% penalty and interest for fines not paid within 90 days. Additionally, the bill specifies that any fine assessed against an individual for a continuing law prohibited substance violation must include the costs associated with testing the prohibited substance. These changes may impact fine revenue collected by the Board, however, any impact will depend on the number and nature of violations discovered during inspections.

<b>Changes to Fines Issued for Violations Discovered During an Inspection</b>		
<b>Offense</b>	<b>Current law limits for fines imposed against licensees</b>	<b>Limits for fines imposed against licensees under the bill</b>
First time a violator commits an offense	\$500	\$250 plus \$100 for each additional violation discovered during that inspection
Second time a violator commits an offense	\$1,000, if the violator has previously been fined for the offense	\$500 plus \$200 for each additional violation discovered during the inspection
Third and subsequent time a violator commits an offense	\$1,500, if the violator has been fined for the same offense two or more times	\$1,000 plus \$300 for each additional violation discovered during the inspection

### **License fees**

Under continuing law, the Board has the authority, with Controlling Board approval, to increase fees for licenses and examinations provided that any fee increase does not exceed the amount specified in statute by more than 50%. The bill increases the fees in statute to the amounts currently collected by the Board.

### **Provisions with no apparent fiscal effects**

The bill makes other changes regarding membership of the Board, modifications to records retention policies, modifications to the Board's hiring authority, certain reporting requirements, and other changes that appear to have little if any fiscal effect. Please see the LSC Bill Analysis for additional details about these provisions with no apparent fiscal effect.