

Department of Fiscal Services  
Maryland General Assembly

FISCAL NOTE

House Bill 1266 (Delegate Hubbard, et al.)  
Environmental Matters

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**Environment - Permits - Standing**

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This bill defines circumstances in which a party can be considered “aggrieved” and thus have standing to appeal a final determination of the Maryland Department of the Environment (MDE) regarding the granting of certain permits. Specifically, the bill provides that (1) an applicant for a permit is aggrieved if the permit is denied or subject to conditions; (2) a governmental entity is aggrieved if a resident of that jurisdiction is aggrieved; (3) an “organization” is aggrieved if a member of the organization is aggrieved; and (4) a person is aggrieved whose property is adjoining, confronting, or nearby to the property subject to the permit activity so long as the granting of a permit is injurious to the person’s health or property, or to plant or animal life on public property abutting the person’s property and the injured interest is within the scope of interests protected by law. The party who requests a contested case hearing must provide competent and material evidence that the party is aggrieved. The bill also includes wetlands permits in the list of permits that incorporate public participation (and possible contested case hearings) in the permit process.

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**Fiscal Summary**

**State Effect:** Indeterminate increase in expenditures. No effect on revenues.

**Local Effect:** Potential indeterminate increase in expenditures. Revenues would not be affected.

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## **Fiscal Analysis**

**State Expenditures:** This bill increases the number of persons and organizations that would have standing to appeal MDE permit decisions. MDE has not provided any information regarding the number of hearing requests that are anticipated due to expanding the definition of an aggrieved person in these cases. However, according to the Office of Administrative Hearings (OAH), MDE permit cases take an average of 20 to 50 hours, depending upon the complexity of permit involved.

OAH expenditures would increase depending upon the number of additional cases. On average, each Administrative Law Judge (ALJ) at OAH handles 1,584 case hours annually. Expenditures for an Administrative Law Judge III would total approximately \$46,800 due to salaries and associated operating expenditures in fiscal 1997. For illustrative purposes, if 20 additional cases are heard that take 50 hours each, and 29 additional cases are heard that take 20 hours each, then OAH would need an additional Administrative Law Judge to hear these cases. OAH receives reimbursable funds from the various agencies depending upon the portion of time spent on cases for that agency. Therefore, an increase in OAH hearings for these issues will be realized as additional expenditures for MDE.

In addition to costs incurred by OAH, other MDE expenditures would increase by an indeterminate amount due to the need to prepare cases for hearings; workloads could also increase to the extent that additional investigations would need to be made prior to permit issuance if permit decisions are likely to be contested. Persons who have requested a contested case hearing can appeal the results of such a hearing to the circuit court; any such litigation would result in additional expenditures for MDE depending upon the number and complexity of cases involved. Including wetlands permits in this section of statute will not have an effect other than the contested case hearing provision. The wetlands permit process already incorporates the public participation process.

**Local Expenditures:** Local governments undertaking projects which require permits may experience delays in obtaining final authorization to proceed with these projects. In addition, to the extent that local governments protest permit decisions on behalf of residents, expenditure increases could result.

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**Information Source(s):** Office of Administrative Hearings, Maryland Department of the Environment, Department of Fiscal Services

**Fiscal Note History:** First Reader - March 18, 1996

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