

Department of Legislative Services
Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE

House Bill 1296

(Delegate Quinter, *et al.*)

Environmental Matters

Water Pollution Administrative Penalties Act of 2004

This bill enhances the administrative penalty authority of the Maryland Department of the Environment (MDE). For violations of specified sediment control, stormwater management, and water pollution control provisions, the bill increases the maximum administrative penalty that may be assessed per violation (from \$1,000 to \$10,000 per violation) and repeals the limit on the total amount that MDE may assess for any action. The bill also provides MDE with the authority to assess administrative penalties for violations of specified nontidal wetlands, tidal wetlands, and water appropriation and use provisions. Finally, the bill modifies the uses of the Maryland Clean Water Fund.

The bill takes effect July 1, 2004.

Fiscal Summary

State Effect: Special/general fund revenues could increase due to the bill's enhanced administrative penalty authority; the impact cannot be reliably estimated at this time, but could be significant. The bill would not require additional expenditures.

Local Effect: The bill would not materially affect local operations or finances.

Small Business Effect: None.

Analysis

Bill Summary: The bill's changes with respect to MDE's administrative penalty authority are shown below in **Exhibit 1**.

Exhibit 1
Existing Administrative Penalty Authority and Changes Made Under HB 1296

	<u>Current Authority</u>	<u>Authority Under HB 1296</u>
Sediment/erosion control	Up to \$1,000 per violation; maximum \$20,000 per action	Up to \$10,000 per violation; no maximum
Stormwater management	Up to \$1,000 per violation; maximum \$20,000 per action	Up to \$10,000 per violation; no maximum
Water appropriation/use	None	Up to \$10,000 per violation; no maximum
Nontidal wetlands	None	Up to \$10,000 per violation; no maximum
Water pollution control	Up to \$1,000 per violation; maximum \$50,000	Up to \$10,000 per violation; no maximum
Tidal wetlands	None	Up to \$10,000 per violation; no maximum

Administrative penalties collected for violations relating to nontidal wetlands provisions and permits to construct or repair reservoirs, dams, or waterway obstructions must be paid into the Nontidal Wetland Compensation Fund. Administrative penalties collected for violations of water appropriation and use permits must be paid into the Maryland Clean Water Fund. Administrative penalties collected for violations of tidal wetlands provisions must be placed in the Wetlands Compensation Fund.

The bill repeals the existing allowable uses of the Maryland Clean Water Fund and establishes new provisions to clarify that the fund must be used for responding to the discharge of pollutants and activities related to program development. Priority must be given to activities pertaining to water quality of the Chesapeake Bay and its tributaries, the coastal bays and their tributaries, and other sensitive waters of the State.

Current Law: MDE's current administrative penalty authority is shown above in Exhibit 1. Administrative penalties collected under current provisions are deposited as follows: (1) for sediment and erosion control, in the Sediment Control Fund; (2) for stormwater management, in the general fund; and (3) for water pollution control, in the Maryland Clean Water Fund. Current law also provides for various criminal and civil

penalties; several of those provisions were enhanced during the 2003 session (Chapter 444).

MDE must use the Maryland Clean Water Fund for activities related to identifying, monitoring, and regulating the proper discharge of effluent into the waters of the State including program development of these activities as provided in the State budget. Priority must be given to activities pertaining to the water quality of the Chesapeake Bay and its tributaries. Funds in the Sediment Control Fund must be used solely for correcting the failure and administration of the sediment control program. Funds in the Wetlands Compensation Fund may be appropriated only for acquisition and conservation of wetland areas by the State, including cost sharing assistance for landowners in the management and control of phragmites. Funds in the Nontidal Wetland Compensation Fund may be used only for the creation, restoration, or enhancement of nontidal wetlands.

Background: MDE administers several programs that relate to the provisions affected by the bill. As part of its water quality and water pollution control programs, MDE sets water quality standards for the level of protection afforded to each body of water in the State. The mission of MDE’s Water Supply Program is to ensure that public drinking water systems provide safe and adequate water and that appropriate usage, planning, and conservation policies are implemented. MDE’s Wetlands and Waterways Program seeks to conserve valuable aquatic systems, providing for the environmental, economic, and resource needs of the State. In 2003, MDE collected \$500,719 in penalties from the existing administrative penalty provisions, as shown in **Exhibit 2**:

Exhibit 2
Administrative, Civil, and Criminal Penalties Collected in 2003

	<u>Administrative Penalties</u>	<u>Civil Penalties</u>	<u>Criminal Penalties</u>
Sediment/erosion control	\$145,910	\$15,500	\$0
Stormwater management	0	0	0
Water appropriation/use	N/A	N/A	0
Nontidal wetlands	N/A	11,500	0
Water pollution control	354,809	329,217	179,000
Tidal wetlands	<u>N/A</u>	<u>0</u>	<u>1,000</u>
Total	\$500,719	\$356,217	\$180,000

Note: Penalty data from 2003; Chapter 444 of 2003, which enhanced specified civil and criminal penalty provisions, did not take effect until October 1, 2003.

Source: Maryland Department of the Environment

Additional Information

Prior Introductions: SB 241/HB 294 of 2002, among other things, would have enhanced MDE's administrative penalty authority in these areas. SB 241 received an unfavorable report from the Senate Education, Health, and Environmental Affairs Committee. HB 294 received an unfavorable report from the House Environmental Matters Committee.

Cross File: None.

Information Source(s): Maryland Department of the Environment, Department of Legislative Services

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ncs/ljm

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