

**Department of Legislative Services**  
 Maryland General Assembly  
 2009 Session

**FISCAL AND POLICY NOTE**

House Bill 1054 (Delegate Niemann)  
 Environmental Matters

**Environment - Permitting Process - Environmental Justice Review**

This bill establishes an environmental justice review process that requires study of certain projects, including consideration of any adverse environmental, human health, or economic impacts on persons living or working near the project, and any disproportionate impact on environmentally stressed communities. Subject to this review process are specified projects requiring the issuance of a permit or permit renewal by the Maryland Department of the Environment (MDE). Exempt from this process are local government permit applicants, except that, other than for permit renewals, the jurisdiction must hold a public hearing in accordance with its own notice and hearing requirements and must consider environmental justice issues.

**Fiscal Summary**

**State Effect:** General fund expenditures increase by a significant but indeterminate amount beginning in FY 2010 for MDE to implement the bill. General fund expenditures increase by at least \$18,500 in FY 2010 and by at least \$15,200 beginning in FY 2011 for the cost of contractual assistance at the Maryland Department of Planning (MDP). Additional increase in State expenditures as various State agencies (as permittees) incur costs associated with conducting the environmental justice review required by the bill. Potential minimal increase in general fund expenditures and revenues due to the bill's criminal penalty provisions.

(in dollars)	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
GF Revenue	\$0	-	-	-	-
GF Expenditure	\$18,500	\$15,200	\$15,200	\$15,200	\$15,200
GF/SF Exp.	-	-	-	-	-
Net Effect	(\$18,500)	(\$15,200)	(\$15,200)	(\$15,200)	(\$15,200)

*Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect*

**Local Effect:** Potential minimal increase in expenditures and revenues due to the bill's criminal penalty provisions.

**Small Business Effect:** Potential meaningful.

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## Analysis

**Bill Summary:** “Environmental justice” is redefined to mean the fair treatment and meaningful involvement of all people regardless of race, color, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.

An “environmentally stressed community” is defined as a minority or low-income community that bears a disproportionate share of the negative environmental consequences resulting from industrial, municipal, and commercial operations or the execution of federal, State, or local programs and policies, as determined by MDE in consultation with the existing Commission on Environmental Justice and Sustainable Communities.

An environmental justice review is a report that describes the proposed action and the historic uses of the site at which the proposed action is to occur. The report has to include a demographic profile of persons living or working within a one-mile radius of the site and description of any adverse environmental, human health, or economic impacts to those persons; a description of any impact to environmentally stressed communities; and discussion of public education and community outreach efforts being conducted in conjunction with the project.

By October 1, 2010, MDE, in consultation with the commission and MDP, has to develop criteria and maps that identify environmentally stressed communities in the State. If MDE determines that a permit applicant's site or facility is not within one mile of an environmentally stressed community as identified on its maps, then MDE may issue or renew the permit. Otherwise, until an applicant conducts and submits an environmental justice review, MDE may not issue:

- an air quality control permit;
- a permit to install, materially alter, or materially extend landfill systems, incinerators for public use, or rubble landfills;
- a permit to discharge pollutants to waters of the State;
- a permit to install, materially alter, or materially extend a structure used for storage or distribution of any type of sewage sludge;

- a permit to own, operate, establish, or maintain a controlled hazardous substance facility;
- a permit to own, operate, or maintain a hazardous material facility; or
- a permit to own, operate, establish, or maintain a low-level nuclear waste facility.

If it is determined, based on the findings in an environmental justice review, that a proposed action will disproportionately affect an environmentally stressed community, the permit applicant must submit to MDE a list of alternative locations, a list of mitigating actions to offset any impacts, and a list of strategies to educate the environmentally stressed community about the proposed project.

A permit applicant who fails to comply with specified environmental justice review requirements is guilty of a misdemeanor and is subject to a fine of up to \$50,000 for each violation and/or imprisonment for up to two years.

The bill requires the commission to include in its annual report an update of the implementation of the bill, and policy or legislative recommendations for the General Assembly's consideration.

**Current Law/Background:** The Commission on Environmental Justice and Sustainable Communities advises State agencies on environmental justice and related community issues; reviews and analyzes the impact of current State policy, laws, and regulations on environmental justice and sustainable communities; coordinates with the Children's Environmental Health and Protection Advisory Council on environmental justice and sustainable communities recommendations; develops criteria to assess whether communities may be experiencing environmental justice issues; and recommends options to the Governor for addressing issues, concerns, or problems surfacing through the review process, prioritizing areas of the State which are targets for immediate action.

**State Expenditures:** General fund expenditures increase significantly for MDE beginning in fiscal 2010 to hire additional regulatory and compliance engineers, natural resource planners, as well as to consult with contractors with expertise in economics, public health, and environmental justice. Several additional engineers and planners are needed at MDE to review environmental justice review reports submitted by the public service companies. Contractual services are also likely necessary to establish the environmental justice review program and provide initial expertise in identifying environmentally stressed communities.

General fund expenditures increase by \$18,526 in fiscal 2010 only for the cost of retaining a contractual GIS planner for five months, and by at least \$15,150 annually beginning in fiscal 2011 for the cost of retaining a planning analyst for four months each

year. This contractual assistance is needed to create and update the statewide environmentally stressed communities map.

General fund, Transportation Trust Fund, and other special fund expenditures may increase for other State agencies, as permittees, to comply with the environmental justice review requirements. For example, the Maryland Department of Transportation alone applies for hundreds of environmental permits each year and therefore faces additional costs to comply with the bill. Moreover, State agencies may be adversely impacted by any delay in the issuance of permits that results from the bill. In addition, general fund expenditures increase minimally beginning in fiscal 2011 as a result of the bill's incarceration penalty.

**State Revenues:** General fund revenues increase minimally beginning in fiscal 2011 as a result of the bill's monetary penalty provision from cases heard in the District Court.

**Local Fiscal Effect:** Revenues increase minimally beginning in fiscal 2011 as a result of the bill's monetary penalty provision from cases heard in the circuit courts. Expenditures increase minimally beginning in fiscal 2011 as a result of the bill's incarceration penalty.

**Small Business Effect:** The bill imposes a significant cost increase to a small business seeking an environmental permit for a project of the type specified in the bill.

**Additional Comments:** MDP advises that much of the demographic data required to develop a map of the State's environmentally stressed communities is provided by federal Census data. The 2010 Census data will be available no later than April 1, 2011. In addition, the American Community Survey's block group data, which is collected every five years, will also be released in early 2011. However, the environmentally stressed community map is required to be completed by October 1, 2010.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** SB 4 is designated as a cross file; however, it is not identical.

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

**Fiscal Note History:** First Reader - March 10, 2009  
ncs/ljm

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