

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

**FISCAL AND POLICY NOTE**

Senate Bill 529 (Senator Harrington)  
 Education, Health, and Environmental Affairs  
 and Finance

**Environment - Environmental Justice Review - Public Service Companies**

This bill establishes an environmental justice review process that requires study of certain public service company projects, including the consideration of any adverse environmental, human health, or economic impacts on individuals using, working, or living within a one-mile radius of the site, and any disproportionate impact on environmentally stressed communities. Subject to this review process are projects to construct or expand an electric, gas, or water plant, or a liquefied natural gas facility. If the Maryland Department of the Environment (MDE) determines that a proposed project will disproportionately affect an environmentally stressed community, the company proposing the project must submit to MDE a list of alternative locations, mitigating actions, and strategies to educate members of the environmentally stressed community about the project.

**Fiscal Summary**

**State Effect:** 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). General fund expenditures increase by an indeterminate but substantially greater amount annually, beginning in FY 2010, to implement the bill.

(in dollars)	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	18,500	15,200	15,800	16,500	17,200
Net Effect	(\$18,500)	(\$15,200)	(\$15,800)	(\$16,500)	(\$17,200)

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

**Local Effect:** Local government expenditures may increase significantly beginning in FY 2010 due to the cost of conducting environmental justice reviews. **This bill may impose a mandate on a unit of local government.**

**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, or 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 individuals using, working, or living on or within a one-mile radius of the site and description of any adverse environmental, human health, or economic impacts to those individuals; 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 project to expand or construct an electric, gas, or water plant, or a liquefied natural gas facility is not within a one-mile radius of an environmentally stressed community as identified on its maps, the company proposing the project does not need to conduct an environmental justice review. Otherwise, before the expansion or construction of a project under the bill, the public service company must conduct an environmental justice review.

If MDE determines, based on the findings in the environmental justice review, that a proposed action will disproportionately affect an environmentally stressed community, the public service company 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.

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

**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.

The Public Service Commission (PSC) regulates power plants and transmission lines. An entity planning to construct a generating facility or a transmission line, or to modify an existing facility or transmission line, must receive a certificate of public convenience and necessity (CPCN) from PSC before beginning construction. Applications for a CPCN are reviewed before a hearing examiner in a formal adjudicatory process with opportunity for public participation.

The CPCN licensing process provides an opportunity for the State to examine all significant aspects and impacts of a proposed power facility. The State's consolidated review of a proposed power facility culminates in a set of licensing conditions, developed by the Department of Natural Resources' Power Plant Research Program (PPRP), which evaluates the impact of the design, construction, and operation of a proposed power plant on the State's environmental, economic, and cultural resources.

A "plant" is defined in the Public Utility Company Article as including all material, equipment, and property owned by a public service company and used or to be used for or in connection with a public utility service. A "public service company" is defined as a common carrier company, electric company, gas company, sewage disposal company, telegraph company, telephone company, water company, or any combination of public service companies.

**State Expenditures:** 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.

In addition, although MDE did not respond to multiple requests for a fiscal estimate on this bill, it is clear that general fund expenditures likely 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. Any such staffing needs have not been estimated.

Expenditures may also increase at MDE to establish procedures to track all plant construction and expansion projects, to the extent this capability does not already exist. Although the CPCN licensing process exists to review and approve power plants and transmission lines, it is not required for the approval of all electric, gas, and water plants.

**Local Expenditures:** Locally owned public service company expenditures may increase to comply with the environmental justice review process, and costs may also increase due to delays caused by the additional review processes under the bill.

**Small Business Effect:** The bill may impose a significant cost increase to a small business proposing 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:** None.

**Information Source(s):** Maryland Department of Planning, Public Service Commission, Department of Legislative Services

**Fiscal Note History:** First Reader - March 2, 2009  
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