

**Department of Legislative Services**  
Maryland General Assembly  
2011 Session

**FISCAL AND POLICY NOTE**

House Bill 371 (Delegate Clagett)  
Environmental Matters

**Department of the Environment - Stormwater Management Ordinance - Cost Study**

This bill requires the Maryland Department of the Environment (MDE) to conduct a study of the cost to fully implement the stormwater management ordinance in effect as of May 4, 2009, including any additional operational or maintenance costs borne by local governments. MDE must report its findings to the General Assembly by January 1, 2012.

The bill takes effect July 1, 2011.

**Fiscal Summary**

**State Effect:** General fund expenditures increase by about \$76,600 in FY 2012 only for MDE to complete the required study with contractual assistance from the Maryland Environmental Service (MES). Revenues are not affected.

(in dollars)	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	76,600	0	0	0	0
Net Effect	(\$76,600)	\$0	\$0	\$0	\$0

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

**Local Effect:** None.

**Small Business Effect:** None.

## Analysis

**Current Law/Background:** According to MDE, while nitrogen loading to the Chesapeake Bay from agricultural and wastewater sources in Maryland has been decreasing since 1985, stormwater runoff has been increasing from newly developed impervious surfaces. The State began reducing the adverse effects of stormwater runoff in 1982 with the passage of the Stormwater Management Act. State regulations followed in 1983, which required each county and municipality to adopt ordinances necessary to implement a stormwater management program. Maryland's stormwater management regulations were significantly strengthened in 2000 with the adoption of the Stormwater Design Manual in State regulations.

In general, a person may not develop any land for residential, commercial, industrial, or institutional use without submitting, and getting approval of, a stormwater management plan from the county or municipality with jurisdiction. The developer must certify that all land development will be done according to the approved plan. A State or federal agency may not undertake any construction activity unless the agency has submitted and obtained approval of a stormwater management plan from MDE.

Criminal, civil, and administrative penalties apply to violations of the State's stormwater management provisions. Every three years, MDE is required to review the stormwater management programs in the counties and municipalities and monitor their implementation. MDE is also required to provide technical assistance, training, research, and coordination services to local governments in the preparation and implementation of their stormwater management programs.

Chapters 121 and 122 of 2007 further enhanced the State's stormwater management program by requiring an environmental site design (ESD), a new form of management practice that involves using small-scale stormwater management practices, nonstructural techniques, and better site planning to mimic natural hydrologic runoff characteristics and minimize the impact of land development on water resources. ESD is widely considered to be the leading and most stringent stormwater management framework employed in the United States today.

Specifically, Chapters 121 and 122 required MDE to promulgate regulations that require (1) the implementation of ESD to the maximum extent practicable; (2) the review and modification (if necessary) of planning and zoning or public works ordinances to remove impediments to ESD implementation; and (3) a demonstration by developers that ESD has been implemented to the maximum extent practicable in a project. The law also established a comprehensive process for approving grading and sediment control plans as well as stormwater management plans to take into account the cumulative impact of both plans.

MDE was required by Chapters 121 and 122 to seek the input of each county and municipality that operates a stormwater management program and work with interested parties to address any reasonable concern during the creation of the ESD regulations and model ordinances. Nevertheless, after the regulations were adopted on May 4, 2009, numerous concerns were raised by local jurisdictions, developers, and others. In general, the concerns related to the need for grandfathering of certain projects that have reached an advanced stage in the development process, the cost and feasibility of ESD, potential conflicts between the regulations' more stringent requirements for redevelopment projects and the State's ongoing smart growth efforts, and the costs of long-term maintenance for ESD practices.

To address some of these concerns, in March 2010 MDE submitted emergency regulations to the General Assembly's Administrative, Executive, and Legislative Review (AELR) Committee. On the grandfathering issue, the emergency regulations allowed local governments to incorporate waiver provisions into their ordinances for projects that have completed part of the development review process but have not received final approval by May 4, 2010. A grandfathered project that receives an administrative waiver may proceed with the development under the previous stormwater regulations in effect as of May 4, 2009. The emergency regulations also provided local governments with greater flexibility in addressing the new requirements for redevelopment projects by providing for alternative stormwater management measures under specified conditions. The AELR Committee approved the emergency regulations on April 6, 2010.

**State Expenditures:** General fund expenditures increase by about \$76,566 in fiscal 2012 only for MDE to hire one contractual project manager on a full-time basis but only for six months and to contract with MES for assistance in completing the required study. This estimate includes a salary, fringe benefits, and ongoing operating expenses, including contractual costs for MES to conduct the study.

Contractual Position	1
Salary and Fringe Benefits	\$26,276
Contractual Study	50,000
Other Operating Expenses	<u>290</u>
<b>Total 2012 State Expenditures</b>	<b>\$76,566</b>

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### Additional Information

**Prior Introductions:** None.

**Cross File:** None.

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

**Fiscal Note History:** First Reader - February 21, 2011  
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