

Department of Legislative Services
Maryland General Assembly
2012 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 208

(Senator Pinsky, *et al.*)

Education, Health, and Environmental Affairs

Environmental Matters

Environment - Recycling - Apartment Buildings and Condominiums

This bill requires the property owner or manager of an apartment building or the council of unit owners of a condominium containing 10 or more units to provide for the collection and removal of recyclable materials by October 1, 2014. A county may require property owners, managers, and councils of unit owners to report to the county on recycling activities. The bill establishes a penalty of \$50 for each day that recycling is not provided for or carried out in accordance with the county recycling plan. Enforcement of the bill, including the authority to conduct inspections, is to be provided by a local government, and any penalties collected are paid to the jurisdiction that brought the enforcement action. Effective October 1, 2013, each county must address the bill's requirements in its currently required recycling plan. The bill does not preempt any other law, rule, or ordinance that is more stringent and does not affect local government authority to enact and enforce recycling requirements that are more stringent, including the establishment of any civil penalties.

Fiscal Summary

State Effect: The bill can likely be handled by the Maryland Department of the Environment (MDE) with existing budgeted resources; however, staff may need to be redirected from other activities to review county recycling plans revised under the bill, beginning in FY 2014.

Local Effect: Local expenditures may increase in some jurisdictions beginning in FY 2015 to ensure that the bill's recycling requirements are provided in accordance with county recycling plans, to provide for recycling at locally owned apartment buildings, or to otherwise enforce the bill. Local revenues may increase beginning in FY 2015 as a result of the bill's civil penalty provision and to the extent any profits generated from the value of recyclable materials accrue to jurisdictions that collect and dispose of recyclable materials from apartments and condominiums. The bill may also result in additional costs for local housing authorities.

Small Business Effect: Potential meaningful.

Analysis

Current Law: In 1988, the Maryland Recycling Act required each county to submit a recycling plan. Jurisdictions with more than 150,000 residents were required to reduce their solid waste by 20%, and jurisdictions with less than 150,000 residents were required to reduce their solid waste by 15%. According to MDE, by 2000, every county had met or exceeded their percentage requirements under the Maryland Recycling Act. Further legislation enacted in 2000 established a voluntary statewide diversion goal of 40% by 2005. MDE indicates that this goal has also been met each year.

Counties have flexibility to determine the best way to reach the required recycling rates. However, the county recycling plan, revised on a triennial basis, must address specified issues such as the feasibility of composting mixed solid waste, methods for the separate collection and composting of yard waste, and methods of financing county recycling efforts, among other issues. Chapters 264 and 265 of 2009 added to this list a strategy for collecting, processing, marketing, and disposing of recyclable materials from county public schools, and Chapter 430 of 2010 added to this list a strategy for the collection and recycling of fluorescent lights containing mercury. Chapter 408 of 2009 requires the State to place a recycling bin at all State-owned and -operated office buildings and devise a system for the recycling of aluminum, glass, paper, and plastic.

Background: According to the U.S. Environmental Protection Agency (EPA), in 2010 (the most recent year for which data are available) 54.3% of the municipal solid waste stream was discarded in landfills, 25.9% was recycled, 11.7% was recovered as energy through combustion, and 8.1% was composted. MDE reports that, in 2010, Maryland had a recycling rate of 41% (up from 39.1% in 2009, but down from 43.9% in 2008) and a waste diversion rate of almost 45% (up from 42.6% in 2009, but down from 47.5% in 2008). The waste diversion rate is equal to the recycling rate, plus any source reduction credit granted to reward waste prevented through various projects.

In addition to the issue of landfill diversion, recycling is encouraged due to the potential for significant reductions in virgin material extraction, energy use, and emissions of greenhouse gases. For example, according to EPA, nationwide recycling and composting activities in 2010 prevented the equivalent of 186 million tons of carbon dioxide emissions; this is the same level of emissions produced by 36 million cars.

Chapter 719 of 2010 required MDE to conduct a study to evaluate solid waste management processes that reduce the solid waste stream through recycling and source reduction. MDE created a study group and consulted with local government officials,

waste haulers, recyclers, environmental groups, academia, State elected officials, and other affected parties including material resource facilities to study these issues. In December 2011, the study group submitted its final report and recommendations.

Among other things, the report discussed apartment and condominium community recycling and noted several potential concerns. For example, collection industry representatives mentioned a high rate of contamination in collection containers at the locations where recycling is currently offered, as well as a low volume of recyclables collected. The report also noted that there is often a lack of social pressure to recycle in these locations, as exists in single-family residential areas. It was stated that recycling is relatively more successful in condominiums compared with apartment buildings because of condo association meetings, fees to support recycling, and because condominiums are usually located in wealthier neighborhoods, where there tend to be higher recycling participation rates. Finally, the report stated that legislation to require such recycling would need to address the responsibility for enforcement of the mandate and resources to support this enforcement.

Local Fiscal Effect: Local revenues may increase beginning in fiscal 2015 due to the bill's civil penalty provision and to the extent any profits generated from the value of recyclable materials accrue to jurisdictions that collect and dispose of recyclable materials from apartments and condominiums.

All counties will be required to amend their county recycling plans beginning October 1, 2013. However, amendment of a county plan may be accomplished within the existing schedule and would therefore impose little additional burden.

Local expenditures increase for some jurisdictions to enforce the bill, although the magnitude of such an increase is unclear at this time. Montgomery and Prince George's counties currently implement multi-family residential apartment recycling programs and will, therefore, not be subject to the bill unless it is determined that the counties' existing programs are in some respects less stringent than the bill's corresponding provisions. Counties that do not currently administer multi-family recycling programs or have the staffing resources or experience to implement the bill will likely require additional personnel for inspection and enforcement activities, unless they opt not to enforce the bill; the bill authorizes, but does not require, local inspections of apartments and condominiums.

Some jurisdictions may also incur additional expenses to provide recycling collection services to privately owned apartments or condominiums to the extent such properties are unable to procure collection services from outside vendors at a reasonable cost, or to ensure that the multi-family recycling plan required by the bill can be adequately fulfilled. For example, Baltimore City advises that it may be necessary to provide

collection services to certain condominium developments and smaller apartment buildings. The city estimates that it would hire two additional solid waste collection crews at an annual cost of \$350,000 and purchase two new collection vehicles at a one-time cost of \$450,000, which excludes fuel and maintenance costs. Baltimore City estimates that it would also likely spend between \$50,000 and \$150,000 on outreach to affected property owners. Finally, the city advises that it may realize some savings in collection costs and from reduced operations at its current recycling drop-off centers, as well as potential profits from the sale of recyclable materials that it collects.

Montgomery County advises that the fiscal 2012 budget for its multi-family recycling program is about \$800,000; that program oversees recycling for 100,000 dwelling units in over 700 multi-family properties. The county recycling center generates revenues that exceed its costs, though most counties do not have county-owned recycling centers. The program budget does not include collection costs, as its program requires multi-family units to obtain private collection services.

Finally, the bill may also cause some jurisdictions to incur additional costs to ensure collection and removal of recyclable materials at properties that they own. Several jurisdictions, such as Baltimore City, administer housing authorities. In Maryland, housing authorities are public bodies corporate and politic, generally dependent on federal funds and rents collected from tenants. The Baltimore City Housing Authority advises that it has 16 high-rise and 240 smaller multi-family properties. The high-rise buildings are not equipped to store separated recyclable materials, and the tenants of these buildings are often disabled or elderly and may need significant assistance to dispose of recyclable materials. The Baltimore City Housing Authority estimates that annual operating costs may increase by between \$500,000 and \$1 million at its high-rise properties, excluding one-time costs to reconfigure the spaces needed to accommodate collection points, procure dumpsters, and provide containers to residents.

Overall, it is unknown to what extent the increase in local revenues and cost savings would offset any increase in expenditures under the bill. The net local fiscal effect is likely to vary greatly among jurisdictions and from year to year depending on the state of the recyclable materials market, the design and enforcement of the local recycling program, and each jurisdiction's current recycling experience and resources.

The Maryland Association of Counties conducted a survey of county recycling activities, and all but 2 of the 15 respondents that provided both revenue and expenditure data reported a net negative fiscal impact from recycling programs; on average expenditures exceeded revenues nearly three-fold. Legislative Services advises, however, that it was not able to independently verify the survey data. Further, the survey was conducted in fiscal 2010 and may not be reflective of the average annual fiscal impact. For example, fiscal 2009 data from Howard and Baltimore counties indicated that their county

recycling programs generated a significant net fiscal benefit. Finally, the survey sought fiscal information for general recycling programs, which may be significantly different than for multi-family recycling programs.

Small Business Effect: Owners or managers of affected apartment buildings and councils of unit owners of condominiums may need to contract with waste and recycling contractors for the collection and removal of recyclable materials, which increases costs beginning in fiscal 2015, unless fully offset by associated savings. For example, an increase in recycling reduces the costs associated with payment of landfill tipping fees; MDE advises that average tipping fees total \$58 per ton statewide. Further, depending on the location of the building and the state of the recycled materials markets, affected owners may realize a profit on the contract for removal of recycled materials. However, it is unknown whether any savings and profits will exceed the one-time and ongoing costs associated with implementing recycling activities. Further, it is unclear to what extent each jurisdiction would enforce the bill's requirements.

Small business recycling contractors will benefit from an increase in the demand for their services.

Additional Information

Prior Introductions: SB 111 of 2011, a similar bill, received an unfavorable report from the Senate Education, Health, and Environmental Affairs Committee. Its cross file, HB 179, passed the House but received an unfavorable report from the Senate Education, Health, and Environmental Affairs Committee. Similar bills were introduced in the 2010, 2009, and 2005 sessions.

Cross File: HB 1 (Delegate Lafferty) - Environmental Matters.

Information Source(s): Calvert, Caroline, Howard, and Montgomery counties; Baltimore City; Maryland Department of the Environment; Maryland Association of Counties; Maryland Solid Waste Management – Recycling and Source Reduction Study Group; U.S. Environmental Protection Agency; Department of Legislative Services

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