

**Department of Legislative Services**  
Maryland General Assembly  
2013 Session

**FISCAL AND POLICY NOTE**  
**Revised**

Senate Bill 875

(Senator Conway)

Education, Health, and Environmental Affairs

Environmental Matters

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**Maryland Oil Disaster Containment, Clean-Up and Contingency Fund and Oil Contaminated Site Environmental Cleanup Fund**

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This bill increases the fee assessed on oil transferred into the State until July 1, 2016, to 8.0 cents per barrel (from 5.75 cents per barrel through June 30, 2013, and from 3.0 cents per barrel beginning on July 1, 2013); beginning July 1, 2016, the fee reverts to 3.0 cents per barrel. The bill also authorizes the fiscal 2013 transfer of up to \$2.5 million from the Oil Contaminated Site Cleanup Fund (Reimbursement Fund) to the Maryland Oil Disaster Containment, Clean-Up and Contingency Fund (Oil Fund); allows owners of residential heating oil tanks to continue to apply for assistance from the Reimbursement Fund through June 30, 2016; and provides for the reimbursement for owners of direct consumptive heating oil tanks. The bill also alters the due date of the annual Oil Fund status report and requires the Secretary of the Environment to convene a workgroup to review and assess long-term funding needs of the State's oil pollution programs. MDE must report the workgroup's findings and recommendations to specified legislative committees by December 31, 2015.

The bill takes effect June 1, 2013.

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**Fiscal Summary**

**State Effect:** Special fund revenues increase by \$4.6 million in FY 2014 due to the 5.0-cent increase in oil transfer fees compared to current law; out-years reflect forecasted changes in oil consumption. The Governor's proposed FY 2014 budget assumes an increase of nearly \$3.0 million in special fund revenues based on a continuation of the current 5.75-cent fee; this is \$1.6 million less than the bill is estimated to generate. (Supplemental Budget No. 1 includes \$3.0 million in general funds in FY 2014 for various oil pollution control activities, contingent on the *failure* of this bill.) Due to the bill's June 1, 2013 effective date, special fund revenues increase by \$173,300 in FY 2013 due to the 2.25-cent increase in oil transfer fees compared to current law. Special fund

expenditures from the Reimbursement Fund may increase by up to \$2.5 million in FY 2013 due to the authorized fund transfer; Oil Fund revenues increase correspondingly. Special fund expenditures increase minimally for reimbursement to owners of direct consumptive heating oil tanks. It is assumed that MDE can convene the workgroup and handle the bill’s reporting requirement with existing budgeted resources in FY 2016.

(in dollars)	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
SF Revenue	\$173,300	\$4,620,700	\$4,474,700	\$4,333,300	\$0
Expenditure	0	0	0	0	0
Net Effect	\$173,300	\$4,620,700	\$4,474,700	\$4,333,300	\$0

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

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

**Small Business Effect:** Meaningful.

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## Analysis

**Bill Summary:** The bill alters the definition of “heating oil tank” and establishes new definitions for a “direct consumptive heating oil tank” and a “residential heating oil tank.” The bill defines a “direct consumptive heating oil tank” as an aboveground or underground tank for the storage of heating oil for use as a fuel in heating a property owned by a nonprofit organization. The bill allows the owner or operator of a direct consumptive heating oil tank to apply to the Reimbursement Fund for costs incurred in performing site rehabilitation until June 30, 2016, which is the same time period as authorized for residential heating oil tank reimbursements under the bill. The bill specifies that funding from the Reimbursement Fund for the owner or operator of a direct consumptive heating oil tank may only be provided for site rehabilitation costs incurred on or after October 1, 2013, if the tank from which a release occurred has a capacity of 5,000 gallons or less. Finally, the bill establishes a \$500 deductible for a reimbursement application from the owner of a direct consumptive heating oil tank, which is also the same deductible as exists under current law and under the bill for residential heating oil tanks owners.

### **Current Law/Background:**

#### *The Oil Fund*

The Oil Fund was established in 1986 to provide funding to MDE’s oil pollution prevention programs, such as permitting, enforcement, and oil spill response. A fee of 0.75 cents was imposed on each barrel of oil transferred into the State. During the

1996 session, the General Assembly increased the fee to 1.0 cent per barrel, with an additional 0.5-cent fee that was set to expire on July 1, 2000. Chapter 604 of 2000 (HB 457) increased the nonexpiring portion of the fee from 1.0 cent to 2.0 cents per barrel. Chapter 604 also extended the expiring portion of the fee until July 1, 2005, increased it from 0.5 cents to 1.0 cent per barrel, and credited it to the Reimbursement Fund. Chapter 177 of 2005 (SB 814) increased the nonexpiring portion of the fee from 2.0 cents to 4.0 cents per barrel from July 1, 2005, through June 30, 2010, and Chapter 377 of 2010 (SB 1117) increased the fee to 5.75 cents per barrel until July 1, 2013.

Costs incurred by the State from the fund are required to be reimbursed by responsible parties; reimbursements are also deposited into the fund. When the fund balance exceeds \$5 million, monthly oil transfer fees are suspended until the balance is \$4 million or until there is evidence that the balance could be significantly reduced by recent discharges.

MDE advises that, in the absence of the bill, the fund balance is depleted in fiscal 2014 without either additional general fund support or significant cuts to the Oil Control Program. MDE advises that the Oil Control Program is currently overseeing 862 open remediation cases and is currently leading remediation activities at 70 sites in the State.

#### *The Reimbursement Fund*

The Reimbursement Fund was established in 1993 to reimburse underground storage tank owners for costs incurred during site cleanups. Chapter 604 of 2000 modified the uses of that fund; among other things, Chapter 604 provided that:

- eligible owners and operators may apply to the fund for reimbursement for costs incurred in performing site rehabilitation after specified dates;
- residential owners of heating oil tanks are subject to a deductible of \$1,000; and
- the maximum amount to be reimbursed for heating oil tanks is \$10,000 per occurrence.

Chapter 177 of 2005 (SB 814) increased the portion of the oil transfer fee that is deposited into the Reimbursement Fund from 1.0 cent to 1.75 cents per barrel and extended the authorization to collect the fee through fiscal 2010. Chapter 177 also modified the uses of the fund; among other things, the Act provided that heating oil tank owners are eligible for reimbursement from the fund through fiscal 2010. Chapter 377 of 2010 (SB 1117) allowed such owners to continue to apply for reimbursements through June 30, 2013.

Chapter 177 also required the Secretary of Environment to convene a workgroup to review and assess the long-term funding needs of the State's oil pollution programs.

MDE was required to report the workgroup's findings and recommendations to specified legislative committees by December 31, 2012. The report was submitted on March 26, 2013. This bill generally implements the workgroup's recommendations.

**State Fiscal Effect:** Based on a projection of about 92.4 million barrels of oil imported into the State in fiscal 2014, an oil transfer fee of 3.0 cents would generate about \$2.77 million. Under the bill, special fund revenues increase by an estimated \$4.62 million in fiscal 2014, due to the increase in the fee from 3.0 cents per barrel under current law to 8.0 cents per barrel.

The Governor's proposed fiscal 2014 budget assumes that the 5.75-cent fee is maintained, despite the fact that, under current law, the fee is set to revert back to 3.0 cents per barrel for fiscal 2014. Specifically, the Governor's proposed fiscal 2014 budget assumes \$5.75 million in fee revenues (an increase of nearly \$3.0 million over what would have been generated from a 3.0-cent per barrel fee), which is about \$1.6 million less than the estimated increase in special fund revenues resulting from an 8.0-cent per barrel fee. Supplemental Budget No. 1 includes \$3.0 million in general funds in fiscal 2014 contingent on the *failure* of this bill to ensure that the \$5.75 million assumed in the Governor's proposed fiscal 2014 budget are available for MDE oil pollution control activities if this bill fails.

Fiscal 2013 special fund revenues are also affected due to the bill's June 1, 2013 effective date. Based on a projection of about 7.7 million barrels of oil implemented into the State in June 2013, a fee increase of 2.25 cents per barrel generates an additional \$173,276 in fiscal 2013.

In fiscal 2015 and 2016, the bill's fee increase from 3.0 cents per barrel under current law to 8.0 cents per barrel may generate an additional \$4.47 million and \$4.33 million, respectively, based on projected imports of 89.5 million and 86.7 million barrels of oil. This projection is based on a continuation of the average actual decline in barrels of oil transferred between fiscal 2004 and 2012 of about 3% annually. To the extent that the actual amount of oil imported into the State differs from these estimates, oil transfer fee revenues also vary. There is no effect on revenues after fiscal 2016, as the fee reverts back to 3.0 cents per barrel.

The bill also authorizes the transfer of up to \$2.5 million from the Reimbursement Fund to the Oil Fund in fiscal 2013. MDE projects a fiscal 2014 opening balance of about \$5.0 million for the Reimbursement Fund and about \$1.0 million for the Oil Fund. Thus, if the authorized \$2.5 million transfer occurs on the effective date of the bill, the fiscal 2014 opening balances of the Reimbursement Fund and the Oil Fund will be \$2.5 million and \$3.5 million, respectively.

It is assumed that future reimbursements to direct consumptive heating oil tank owners under the bill's authorization is minimal. Thus, special fund expenditures increase minimally beginning in fiscal 2013 due to the new class of recipients of moneys from the Reimbursement Fund.

**Small Business Effect:** According to MDE projections, the Reimbursement Fund may provide assistance averaging \$700,000 annually for residential and commercial cleanups. Historically, the majority of reimbursements have supported commercial cleanups, and presumably, some commercial applicants are small businesses. Additionally, owners of heating oil tanks benefit from the continued authorization to seek reimbursement through June 30, 2016, and owners of direct consumptive heating oil tanks benefit from the new authorization to seek reimbursement through June 30, 2016.

It is anticipated that nearly 300 companies hold oil transfer licenses in the State. To the extent any of these licensees are small businesses, they incur an increase in costs due to the bill's fee increase.

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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 - March 11, 2013  
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