

Department of Legislative Services
 Maryland General Assembly
 2019 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 760 (Senator Klausmeier)
 Education, Health, and Environmental Affairs

Natural Resources - Whistleblower Program - Establishment

This bill requires the Department of Natural Resources (DNR) to establish a Natural Resources Whistleblower Program to provide rewards of financial compensation to individuals or nonprofit organizations that report violations of natural resources or conservation laws that lead to a conviction. The bill establishes a Natural Resources Whistleblower Fund, administered by DNR, to fund the program. The bill redirects a portion of specified fines and restitution from the Fisheries Research and Development Fund and the State Wildlife Management and Protection Fund to the new fund. DNR must adopt implementing regulations by October 1, 2019. The bill also establishes an annual reporting requirement. **The bill takes effect July 1, 2019.**

Fiscal Summary

State Effect: General fund expenditures increase by \$31,900 in FY 2020 only for computer programming costs. Overall special fund finances are not affected; the bill shifts specified fines/restitution from existing DNR special funds into the new fund for other purposes.

| (in dollars) | FY 2020 | FY 2021 | FY 2022 | FY 2023 | FY 2024 |
|----------------|------------|---------|---------|---------|---------|
| Revenues | \$0 | \$0 | \$0 | \$0 | \$0 |
| GF Expenditure | 31,900 | 0 | 0 | 0 | 0 |
| Net Effect | (\$31,900) | \$0 | \$0 | \$0 | \$0 |

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

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Bill Summary: The purpose of the Natural Resources Whistleblower Program is to (1) provide the Natural Resources Police (NRP) Force with additional assistance and resources to enforce criminal laws related to natural resources and conservation and (2) augment law enforcement activities for State parks, waters, forests, and land.

The Natural Resources Whistleblower Fund may only be used for the administration and implementation of the new program. The fund consists of (1) revenue distributed from fines and restitution imposed by the District Court or a circuit court, as specified, (2) money appropriated in the State budget; (3) interest earnings; and (4) any other money from any other source. Specifically, the bill redirects the following fines and restitution to the new fund:

- 25% of the fines imposed by the District Court pursuant to § 4-1204(h) of the Natural Resources Article relating to enhanced penalties imposed for specified violations relating to fishing without a valid license (that otherwise would be paid into DNR's Fisheries Research and Development Fund);
- 25% of the fines imposed by a circuit court for a violation of any provision of Title 4 (Fish and Fisheries) of the Natural Resources Article (that otherwise would be paid into DNR's Fisheries Research and Development Fund);
- 25% of the restitution collected pursuant to § 10-1101 of the Natural Resources Article for convictions of deer poaching (that otherwise would be paid into DNR's Wildlife Management and Protection Fund); and
- 25% of the fines imposed by the circuit courts for any violation of the Title 10 (Wildlife) of the Natural Resources Article (that otherwise would be paid into DNR's Wildlife Management and Protection Fund).

Expenditures from the fund may be made only in accordance with the State budget.

By October 1 each year, DNR must submit a report to the Governor and the General Assembly that details the following for the previous fiscal year:

- the revenue collected and rewards of financial compensation distributed by the fund;
- the reports of violations provided to DNR; and
- the number of violations reported that led to rewards.

Current Law/Background:

Fisheries Research and Development Fund

The Fisheries Research and Development Fund is a special fund administered by DNR. The purpose of the fund is (1) to finance the replenishment of fisheries resources and related research and (2) match federal funds available for the research and development of fisheries. The fund consists of (1) money collected from commercial fishing licenses and permits, service fees, and other money paid to the State for oyster shells and clam shells removed from the bottom beneath the tidal waters of the State, the sale of specified seed oysters, and any fine or forfeiture collected under § 4-1202 of Title 4 of the Natural Resources Article; (2) investment earnings; and (3) money appropriated from the State budget.

Section 4-1202 of the Natural Resources Article specifies the disposition of fines collected under Title 4 of the Natural Resources Article, which deals with fish and fisheries. Among other things, this section directs a fine imposed by the District Court under § 4-1201(h) to the Fisheries Research and Development Fund. Section 4-1201(h) establishes enhanced penalties for a person who commits separate commercial fishing violations while his/her license or authorization is suspended or revoked, or who engages in commercial fishing activity without a valid license or authorization. Such a person is guilty of a misdemeanor and, on conviction, is subject to a fine up to \$25,000 and/or up to one year imprisonment, with costs imposed at the discretion of the court. DNR advises that convictions for violations of § 4-1201(h) are rare.

State Wildlife and Management Fund

The State Wildlife Management and Protection Fund is another special fund administered by DNR. The purpose of the fund is to finance the scientific investigation, protection, propagation, and management of wildlife. The fund consists of (1) money collected for hunting license, stamps, applications, or permit fees under Title 10 of the Natural Resource Article, which deals with wildlife and (2) investment earnings.

Section 10-1102 of the Natural Resources Article directs any fine imposed by a circuit court, less the costs of collection, to the State Wildlife Management and Protection Fund. Section 10-1101 of the Natural Resources establishes the general penalties for any person who violates Title 10 of the Natural Resources Article. Generally, a person who violates the wildlife provisions of the Natural Resources Article is guilty of a misdemeanor, and upon conviction, is subject to a fine up to \$1,500 with costs imposed at the discretion of the court. For a second or subsequent offense, a person is subject to a fine up to \$4,000 and/or imprisonment for up to one year, with costs imposed at the discretion of the court. Restitution collected under § 10-1101.1 for deer poaching is deposited into the State

Wildlife Management and Protection Fund. Maximum restitution charges range from \$5,000 to \$10,000 depending on the type of deer and score, as measured by the Boone and Crockett Club's scoring system.

DNR's Whistleblower Program

DNR advises that in 2018, NRP established a [whistleblower program](#) in partnership with the nonprofit organization Maryland Wildlife Crimestoppers, Inc. Under the program, citizens may report a violation of natural resources law by text, email, or telephone to NRP, who will then investigate the reported activity. Callers may choose to remain anonymous or may choose to provide sufficient information that they can be contacted at a later time regarding a reward. Citizens who supply NRP with information leading to the arrest and conviction of a suspect are eligible to receive cash rewards. DNR notes that Maryland Wildlife Crimestoppers has the ability independently to raise funds to provide for rewards to reporting parties. NRP has received 94 calls from citizens reporting poaching activity since September 1, 2018. DNR reports that this far exceeds the annual calls to a former poaching tip hotline it once administered.

State Fiscal Effect: DNR estimates that the bill results in approximately \$11,000 annually being redirected from the Wildlife Management and Protection Fund into the Natural Resources Whistleblower Fund. This represents 25% of the average annual revenues collected from restitution imposed for convictions related to deer poaching. Based on information provided by DNR, any fines redirected from the Fisheries Research and Development Fund pursuant to the bill are anticipated to be minimal.

Any special funds that would otherwise be used for authorized purposes of the Wildlife Management and Protection Fund would instead be used for the whistleblower program established by the bill. DNR notes that the Wildlife Management and Protection Fund is the primary source of funding for DNR's Wildlife and Heritage Service, which is already experiencing a shortfall in available special funds.

General fund expenditures for the Judiciary increase by \$31,926 in fiscal 2020 only for 295.2 hours of computer reprogramming to redirect fines and restitution into the new fund, as required by the bill.

DNR can adopt regulations and submit the required annual report with existing resources.

Additional Information

Prior Introductions: None.

Cross File: HB 1194 (Delegate Lierman, *et al.*) - Environment and Transportation.

Information Source(s): Montgomery and Worcester counties; Maryland Association of Counties; Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Department of Natural Resources; Department of Legislative Services

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