

Department of Legislative Services
 Maryland General Assembly
 2019 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 246 (Delegate Shetty, *et al.*)
 Rules and Executive Nominations

General Assembly - Fiscal Notes - Environmental Impact Statements

This bill requires a fiscal and policy note prepared by the Department of Legislative Services (DLS) to include an environmental impact statement that (1) indicates whether a bill will or may have an environmental impact and (2) specifies the type and category of the environmental impact, if any. DLS, in consultation with the Maryland Department of the Environment (MDE) or other agency with relevant expertise, must determine the type and category of environmental impact by completing Part II of the environmental assessment form used by State agencies to determine whether an environmental effects report is required under the Maryland Environmental Policy Act (MEPA) for a proposed project.

Fiscal Summary

State Effect: General fund expenditures increase by *at least* \$508,000 in FY 2020. Future year expenditures reflect annualization and elimination of one-time costs. General and special fund expenditures increase, likely significantly, for MDE and other agencies to provide support to DLS. These costs have not been quantified below.

(in dollars)	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	508,000	636,800	658,100	680,600	703,900
GF/SF Exp.	-	-	-	-	-
Net Effect	(\$508,000)	(\$636,800)	(\$658,100)	(\$680,600)	(\$703,900)

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

Local Effect: Potential operational impact on local governments to the extent local governments receive additional information requests from DLS under the bill.

Small Business Effect: None.

Analysis

Current Law: DLS must prepare a fiscal and policy note for each bill considered by the General Assembly. Generally, a standing committee of the General Assembly may not vote on a bill unless the bill is accompanied by a fiscal and policy note.

A fiscal and policy note prepared by DLS must contain:

- an estimate of the fiscal impact of the bill on the revenues and expenditures of the State government and local governments for five years beginning with the year the bill takes effect. If the bill's full fiscal impact is not expected to occur during that time, the analysis must include an estimate for each year until and including the first year the impact occurs;
- for a bill that requires a mandated appropriation in the State budget, a statement to that effect and an estimate of the fiscal impact of the mandated appropriation;
- for a bill that imposes a mandate on a unit of local government, a statement to that effect and an estimate of the fiscal impact of the local mandate, including the effect on local property tax rates;
- an analysis of the bill's economic impact on small businesses; and
- a list of sources of information used in preparing the fiscal impact estimates.

DLS must prepare a revised fiscal and policy note as soon as possible following the adoption of an amendment that changes the fiscal impact of a bill. A revised fiscal and policy note is typically prepared when a bill passes third reading in the house of origin and crosses over for consideration by the second house.

Upon request by DLS, a unit of State or local government must promptly provide any information requested by DLS for preparing a fiscal and policy note. Statute also specifies that, in order to facilitate the preparation of the analyses of the fiscal, legal, and policy impact of proposed legislation, a unit of State government must respond to a request by the Office of Policy Analysis (OPA) within three business days, unless that requirement is waived. In practice, OPA typically sets a deadline for each request that is five business days after the request is sent, although this can vary depending on when the legislation is scheduled for a hearing.

Maryland Environmental Policy Act (MEPA)

MEPA, established by Chapter 702 of 1973, requires State agencies to prepare environmental effects reports for each proposed State action that significantly affects the quality of the environment. A “State action” is a request for legislative appropriations or other legislative action that will alter the quality of the air, land, or water resources. MEPA charges the Secretary of Natural Resources with issuing guidelines to assist State agencies in the preparation of environmental effects reports. MEPA is similar to and modeled after the National Environmental Policy Act.

Background:

Environmental Assessment Form

The environmental assessment form, shown in **Appendix – Environmental Assessment Form**, is used by State agencies to assist in determining whether an environmental effects report is required for a proposed project in accordance with MEPA. Part II includes 47 questions that must be answered, some of which may require written comments.

Fiscal and Policy Notes Statistics

During the 2018 legislative session, DLS analysts prepared a total of 2,539 first-reader fiscal and policy notes. The assignment of bills to fiscal note analysts is typically concentrated at the end of the first month of the legislative session when bill introduction deadlines occur and the majority of legislation is introduced. In the 2018 legislative session, approximately 75% of first-reader fiscal and policy notes were written during a five-week period in the middle of the session.

State Expenditures:

Department of Legislative Services Expenditures

DLS advises that existing staff are working at full capacity with current responsibilities and do not have the capacity or expertise to conduct the environmental impact analysis required under the bill. DLS estimates that, based on the number of bills assigned to fiscal note analysts by subject matter in the 2018 legislative session, roughly more than 30% of bills will require significant additional analysis, assuming that the bill requires DLS to complete the required form only for bills that may or will have an impact on the environment. Therefore, DLS advises that it requires additional analysts, including one additional senior-level analyst, to prepare and review the environmental impact statements.

Thus, general fund expenditures for DLS increase by \$507,955 in fiscal 2020, which accounts for the bill's October 1, 2019 effective date. This estimate reflects the cost of hiring five analysts to prepare the environmental impact statements and one senior-level analyst with experience in environmental impact analysis to review the work products. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Positions	6
Salaries and Fringe Benefits	\$475,802
Operating Expenses	<u>32,153</u>
Total FY 2020 DLS Expenditures	\$507,955

Future year expenditures reflect full salaries with annual increases and employee turnover and ongoing operating expenses.

Expenditures may increase further to the extent that average bill volumes increase and additional staff are needed. DLS further advises that, even with additional personnel, the bill's requirements may delay the fiscal note process to the extent that the bill requires additional staff collaboration, creates new administrative burdens, and delays agency responses to information requests.

Impact to Other State Agencies

The bill requires DLS to consult with MDE and other agencies with relevant expertise to determine the type and category of a bill's environmental impact through the completion of Part II of the environmental assessment form. DLS advises that the bill's requirements necessitate significant additional collaboration with MDE and, given the scope of the environmental assessment form, potentially with several other State agencies.

Thus, several State agencies may experience operational impacts and/or require additional resources to the extent that they must provide additional information per fiscal note information request and respond to a significant number of additional fiscal note information requests under the bill. MDE estimates that it will likely incur costs between \$1,000 and \$4,400 *per bill* to hire contractors to conduct the additional analyses required and provide support to DLS in completing the environmental assessment form and assessing probable environmental impacts. MDE notes, however, that given the wide scope of potential impacts addressed in the environmental assessment form, MDE is only able to assist DLS with a limited portion of the required analysis. The Maryland Department of Transportation (MDOT) similarly believes that, given the large number of bills that deal with transportation-related issues, it may also need to hire consultants to respond to inquiries from DLS; MDOT estimates that it will likely incur costs of approximately \$600 *per bill* to do so.

Because the bill's impact on MDE and other State agencies largely depends on the volume and substance of bills introduced, the full impact of the bill cannot be readily quantified. Even so, general and special fund expenditures increase significantly.

Additional Comments: As DLS revises fiscal and policy notes as appropriate when bills are amended, the requirement under the bill may also apply to third-reader and enrolled versions of fiscal and policy notes. If so, the operational and fiscal impact on DLS and other State agencies is even greater.

MDE advises that it uses the environmental assessment form to determine potential environmental impacts at the project level, where the focus is on a particular project with a well-defined scope and fixed location. MDE further advises that, in many cases, assessing the type and category of potential environmental impacts of proposed legislation is extremely difficult, if not impossible; legislation is often broad in scope and can result in a number of projects of indeterminate types and locations, the unique potential impacts of which cannot be predicted at the time legislation is considered. MDE notes that, practically, under the bill, the answer to many of the questions on the environmental assessment form will likely be "unknown." Thus, DLS advises that the environmental impact statements produced under the bill may, in many cases, be of little informational value.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Department of the Environment; Department of Natural Resources; Maryland Department of Transportation; Maryland Energy Administration; Department of Legislative Services

Fiscal Note History: First Reader - February 22, 2019
mag/mcr

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Appendix – Environmental Assessment Form

This form is to assist the reviewers in determining whether a proposed action could cause significant natural and socio-economic environmental effects and thus require an Environmental Effects Report.

DEPARTMENT _____ DIVISION _____

OTHER _____ PROJECT TITLE _____

PREDICTED DATES: COMMENCEMENT _____ COMPLETION _____

PROJECTED COST _____

I BACKGROUND INFORMATION

1. Give a brief description of the proposed action/project(s)
2. Describe the geographical area(s) which will be affected by the action/project(s). Specifically locate the project by using the Maryland Coordinate Grid System, include distinguishing natural and man-made features and a brief description of the present use of the area(s). Include a suitable location map (sketch map or copy of U.S. Geological Survey map, etc.).

II ASSESSMENT OF SIGNIFICANT ENVIRONMENTAL EFFECTS

The following questions should be answered by placing a check in the appropriate column(s). If desirable, the “comments attached” column can be checked by itself or in combination with an answer of “yes” or “no” to provide additional information or to overcome an affirmative presumption.

In answering the questions, the significant beneficial and adverse, short and long term, effects of the propose action, on-site and off-site, during construction and operation should be considered.

All questions should be answered as if the agency is subject to the same requirements as a private person requesting a license or permit from the State or Federal Government.

B. WATER USE CONSIDERATIONS (Continued)

- 20. Will the project require a permit for the construction and operation of facilities for sewage treatment and/or land disposal of liquid waste derivatives?
- 21. Will the action result in any discharge into surface or sub-surface water?
- 22. If so, will the discharge affect ambient water quality parameters and/or require a discharge permit?

C. AIR USE CONSIDERATIONS

- 23. Will the action result in any discharge into the air?
- 24. If so, will the discharge affect ambient air quality parameters or produce a disagreeable odor?
- 25. Will the action generate additional noise which differs in character or level from present conditions?
- 26. Will the action preclude future use of related air space?
- 27. Will the action generate any radiological, electrical, magnetic, or light influences?

D. PLANTS AND ANIMALS

- 28. Will the action cause the disturbance, reduction or loss of any rare, unique or valuable plant or animal?
- 29. Will the action result in the significant reduction or loss of any fish or wildlife habitats?
- 30. Will the action require a permit for the use of pesticides, herbicides or other biological, chemical or radiological control agents?

E. SOCIO-ECONOMIC

- 31. Will the action result in a preemption or division of properties or impair their economic use?
- 32. Will the action cause relocation of activities, structures or result in a change in the population density or distribution?
- 33. Will the action alter land values?
- 34. Will the action affect traffic flow and volume?
- 35. Will the action affect the production, extraction, harvest or potential use of a scarce or economically important resource?

		Comments
Yes	No	Attached
Yes	No	Comments Attached
Yes	No	Comments Attached
Yes	No	Comments Attached

E. SOCIO-ECONOMIC (Continued)

- 36. Will the action require a license to construct a sawmill or other plant for the manufacture of forest products?
- 37. Is the action in accord with federal, state, regional and local comprehensive or functional plans – including zoning?
- 38. Will the action affect the employment opportunities for persons in the area?
- 39. Will the action affect the ability of the area to attract new sources of tax revenue?
- 40. Will the action discourage present sources of tax revenue from remaining in the area, or affirmatively encourage them to relocate elsewhere?
- 41. Will the action affect the ability of the area to attract tourism?

F. OTHER CONSIDERATIONS

- 42. Could the action endanger the public health, safety or welfare?
- 43. Could the action be eliminated without deleterious effects to the public health, safety, welfare or the natural environment?
- 44. Will the action be of statewide significance?
- 45. Are there any other plans or actions (federal, state, county or private) that, in conjunction with the subject action, could result in a cumulative or synergistic impact on the public health, safety, welfare or environment?
- 46. Will the action require additional power generation or transmission capacity?

G. CONCLUSION

- 47. This agency will develop a complete environmental effects report on the proposed action.

		Comments
Yes	No	Attached
Yes	No	Comments
		Attached
Yes	No	Comments
		Attached