

Department of Legislative Services
Maryland General Assembly
2020 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1212 (Delegate Bagnall, *et al.*)
Environment and Transportation

Department of the Environment, Department of Transportation, and State
Highway Administration - Permits With Impact Studies - Hearings

This bill prohibits the Maryland Department of the Environment (MDE), the Maryland Department of Transportation (MDOT), or the State Highway Administration (SHA) from holding a public hearing on the issuance of a “permit,” or from issuing a permit, unless the appropriate agency/unit first holds a public hearing that meets specified requirements. Among other things, each State agency or local jurisdiction that is involved with the permitting process must attend the public hearing.

Fiscal Summary

State Effect: Transportation Trust Fund Expenditures (TTF) increase by *at least* \$1.2 million in FY 2021 and by *at least* \$1.6 million annually thereafter. General/special fund expenditures for MDE increase significantly, as discussed below. State revenues are not directly affected, but could be affected to the extent the bill affects the number of permits issued in any given year.

Local Effect: Local government expenditures likely increase, as discussed below. Local revenues are not affected. **The bill may impose a mandate on a unit of local government.**

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: Under the bill, a “permit” is a permit issued by MDE, MDOT, or SHA for which an “impact study” is required. An “impact study” means a study examining the

consequences that may result from a proposed activity; the term includes (1) environmental impacts, including air and water quality; (2) noise impacts; and (3) traffic impacts.

In addition to the requirement that each State agency or local jurisdiction involved with the permitting process attend the public hearing and be available to answer questions from the public, the bill also requires that the public hearing be located within 10 miles of the site for which the permit is being sought.

Current Law/Background:

Maryland Department of Transportation and the State Highway Administration

MDOT is charged with managing the State's transportation systems. The department is organized into SHA, the Motor Vehicle Administration, the Maryland Aviation Administration, the Maryland Port Administration, and the Maryland Transit Administration (MTA). Other departmental components include the Office of the Secretary and certain advisory and zoning boards.

SHA is responsible for more than 5,200 miles or approximately 16,800 lane miles of road, 2,500 bridges, 3,500 small stream crossing structures, and 80 miles of sound/noise barriers in the State. It also has responsibility for planning, designing, constructing, and maintaining these roads and bridges to safety and performance standards while considering sociological, ecological, and economic concerns.

MDOT and SHA issue thousands of permits annually.

Maryland Department of the Environment

MDE's primary mission is to protect and restore the environment for the health and well-being of all Marylanders. The department's vision is for healthy, vibrant, and sustainable communities and ecosystems in Maryland. The department regulates residential and commercial activities that can potentially affect the quality of the State's environment through the following administrations: (1) the Air and Radiation Administration; (2) the Water and Science Administration; and (3) the Land and Materials Administration. Much of the department's regulatory activity involves permitting and licensing. MDE advises that the department issues an average of 9,007 permits annually.

Activities That Require an "Impact Study"

There are a broad number of potential activities that could trigger the requirement to conduct an impact study, as defined in the bill. Related to transportation, MDOT and SHA regularly conduct traffic impact studies for road construction and reconstruction

projects and noise impact studies to determine whether residential neighborhoods near State highways require noise barriers. Two of the most extensive environmental study requirements are established under the Maryland Environmental Policy Act (MEPA) and the National Environmental Policy Act (NEPA).

MEPA requires State agencies to prepare an environmental effects report on “each proposed State action significantly affecting the quality of the environment.” A proposed “State action” is a request for legislative appropriations or other legislative actions that will alter the quality of the air, land, or water resources.

NEPA requires federal agencies to assess the environmental effects of their proposed actions prior to making decisions. The range of actions covered by NEPA is broad and includes making decisions on permit applications, adopting federal land management actions, and constructing highways and other publicly owned facilities. NEPA requires a range of alternatives to be considered and the environmental impacts of each alternative to be analyzed. Specifically, all federal agencies must prepare detailed statements assessing the environmental impact of and alternatives to major federal actions significantly affecting the environment. These statements are commonly referred to as Environmental Impact Statements and Environmental Assessments.

State Expenditures: The bill significantly expands the public hearing process for MDOT and MDE with respect to the issuance of permits that require an impact study. This results in a significant increase in TTF expenditures for MDOT and general/special fund expenditures for MDE.

Maryland Department of Transportation

TTF expenditures increase by *at least* \$1.2 million in fiscal 2021, which accounts for the bill’s October 1, 2020 effective date, and by *at least* \$1.6 million annually thereafter to hold additional public hearings. This estimate assumes that the bill only affects permits issued by MDOT/SHA that require a traffic impact study. According to SHA, this requires it to hold an estimated 150 additional public hearings annually for such permits. Based on historical information regarding public meeting costs, the estimate assumes that each additional hearing costs \$10,700, which includes hearing preparation and staffing costs.

SHA and the Maryland Transportation Authority also issue approximately 140,000 hauling permits annually for overweight/overweight vehicles; these permits require engineering impact reviews. If the bill applies to hauling permits issued by SHA, the increase in costs for MDOT is significantly higher.

Finally, MDOT advises that permits issued by MTA are likely not affected as those permits already include similar requirements.

Maryland Department of the Environment

MDE estimates that its expenditures increase by \$7.2 million in fiscal 2021, increasing to \$8.4 million by fiscal 2025, to hire 108 additional employees to attend, staff, and hold additional public hearings as a result of the bill. MDE advises that its estimate is based on current permitting levels and the fact that the department does not require public hearings for most of the permits it issues. The Department of Legislative Services (DLS) concurs that general/special fund expenditures for MDE increase significantly to hire additional staff to hold additional public hearings. However, DLS is unable to independently verify MDE's estimate at this time.

Other State Agencies

The bill may also affect other State agencies to the extent that they are required to attend public hearings under the bill that they otherwise would not attend.

Local Expenditures: Local government expenditures likely increase to attend public hearings they otherwise would not attend. In addition, the bill likely increases the timeframe for the permitting process and may increase costs for local governments to obtain affected permits.

Small Business Effect: The bill likely increases the timeframe for the permitting process and may increase costs for small business to obtain affected permits.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): cities of Baltimore and Bowie; Howard, Montgomery, and Prince George's counties; Maryland Association of Counties; Maryland Municipal League; Public School Construction Program; Maryland Department of Agriculture; Maryland Department of the Environment; Department of General Services; Department of Natural Resources; Maryland Department of Transportation; Public Service Commission; Maryland Stadium Authority; Department of Legislative Services

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