

Department of Legislative Services
 Maryland General Assembly
 2021 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 661

(Senator Patterson)

Education, Health, and Environmental Affairs

Environment and Transportation

Environment - Maryland Oil Disaster Containment, Clean-Up and Contingency Fund and Oil Contaminated Site Environmental Cleanup Fund - Funding, Reallocation, Reimbursements, and Study

This bill extends the current fee (8.0 cents per barrel) assessed on oil transferred into the State until July 1, 2024; beginning July 1, 2024, the fee is 5.0 cents per barrel. Until July 1, 2024, 7.75 cents of the per barrel fee are credited to the Maryland Oil Disaster Containment, Clean-up and Contingency Fund (Oil Fund) and 0.25 cents are credited to the Oil Contaminated Site Environmental Cleanup Fund (Reimbursement Fund). The bill also authorizes (1) residential owners of heating oil tanks to apply for assistance from the Reimbursement Fund through June 30, 2024, as specified, and (2) in fiscal 2022 through 2029, funds from the Oil Fund to be used to provide such reimbursements. The bill establishes new study and reporting requirements for the Maryland Department of the Environment (MDE). **The bill takes effect July 1, 2021.**

Fiscal Summary

State Effect: Special fund revenues increase by \$2.1 million in FY 2022 due to the continuation of the fee at current levels; out-years reflect the effect through FY 2025 and a delay in receipt of fees from the prior year. The Governor’s proposed FY 2022 budget reflects continuation of FY 2021 fee levels. Special fund expenditures from the Reimbursement Fund increase from FY 2022 through 2029.

(in dollars)	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
SF Revenue	\$2,137,500	\$2,850,000	\$2,850,000	\$712,500	\$0
SF Expenditure	-	-	-	-	-
Net Effect	-	-	-	-/(-)	(-)

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

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

Small Business Effect: Minimal.

Analysis

Bill Summary: The bill authorizes a residential owner of a heating oil tank, until June 30, 2024, to apply to the Reimbursement Fund for reimbursement not later than six months after the completion of rehabilitation of an oil tank for eligible costs incurred on or after October 1, 2000. The bill also authorizes, in fiscal 2022 through 2029, for funds from the Oil Fund to be used to provide such reimbursements.

MDE must study the Reimbursement Fund and State efforts to replace aging residential heating oil tanks. The study must include several related items, including (1) the number of reimbursement claims submitted and the backlog of such claims during 2021 and 2022 and (2) the average number of days for owners to receive reimbursements during 2021 and 2022. The study must also include recommendations to improve the turnaround time for reimbursements, whether the Reimbursement Fund should be continued, and recommendations to improve the State's response to aging residential heating oil tanks. MDE must report its findings and recommendations to the General Assembly after December 1, 2022, but before January 1, 2023.

Current Law:

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 was imposed on each barrel of oil transferred into the State. The fee has been increased and extended multiple times since its establishment. Pursuant to Chapter 772 of 2019, the fee is 8.0 cents per barrel fee until July 1, 2021; beginning July 1, 2021, the fee is 5.0 cents per barrel. Until July 1, 2021, 7.75 cents of the per barrel fee are credited to the Oil Fund. Chapter 772 also authorized, in fiscal 2020 and 2021 only, funds from the Oil Fund to be used to pay costs associated with the purposes of the Reimbursement Fund (discussed below).

Costs incurred by the State from the Oil Fund are required to be reimbursed by responsible parties; reimbursements are also deposited into the fund. When the fund balance exceeds \$5.0 million, monthly oil transfer fees are suspended until the balance is \$4.0 million, or until there is evidence that the balance could be significantly reduced by recent discharges.

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.

The amount of funding directed toward the Reimbursement Fund, and the ability of owners to apply for funding for reimbursements, has also been altered multiples times since the establishment of the fund. Most recently, Chapter 772 of 2019 extended a requirement that 0.25 cents of the per barrel fee (described above) be credited to the Reimbursement Fund until July 1, 2021. Chapter 772 also authorized owners of heating oil tanks to continue to apply for assistance from the Reimbursement Fund through June 30, 2021.

State Fiscal Effect: MDE can complete the required study and report with existing budgeted staff and resources.

Based on an estimated 95.0 million barrels of oil imported into the State annually, an oil transfer fee of 5.0 cents generates \$4.75 million annually. Under the bill, special fund revenues increase by an estimated \$2.1 million in fiscal 2022 due to the increase in the fee from 5.0 cents per barrel to 8.0 cents per barrel; this estimate reflects a three-month delay in the distribution of oil transfer fees to MDE from the prior fiscal year. Special fund revenues increase by an estimated \$2.9 million in both fiscal 2023 and 2024. At the start of fiscal 2025, the fee decreases from 8.0 cents per barrel to 5.0 cents per barrel (which is the same as the fee under current law). However, because of the one-quarter delay in the receipt of fees from the prior fiscal year, the bill increases special fund revenues in fiscal 2025 by an estimated \$712,500. After the first quarter of fiscal 2025, the bill has no effect on revenues, as the fee under the bill is the same as the fee under current law (5.0 cents per barrel).

The statutorily mandated distribution of fee revenue to the Reimbursement Fund is extended under the bill until July 1, 2024. Under current law, this distribution ends July 1, 2021. Thus, of the \$2.1 million in additional fee revenue collected in fiscal 2022 under the bill, approximately \$2.0 million is deposited into the Oil Fund and \$178,100 is deposited into the Reimbursement Fund. In fiscal 2023 and 2024, of the \$2.9 million in additional fee revenue collected, approximately \$2.6 million is deposited into the Oil Fund and \$237,500 is deposited into the Reimbursement fund. Finally, in fiscal 2025, of the \$712,500 in additional fee revenue collected, approximately \$653,100 is deposited into the Oil Fund and \$59,400 is deposited into the Reimbursement Fund.

The bill also allows residential owners of eligible heating oil tanks to apply for reimbursement until June 30, 2024, and authorizes the Oil Fund to be used to cover reimbursements from the Reimbursement Fund in fiscal 2022 through 2029. In addition to

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the fee revenue deposited into the Reimbursement Fund through fiscal 2025 due to the bill, MDE advises that it will transfer funds from the Oil Fund to the Reimbursement Fund to be able to continue providing reimbursements to owners of heating oil tanks through 2029 (even after fee revenue is no longer directly deposited into the Reimbursement Fund), as authorized by the bill. Thus, expenditures from the Reimbursement Fund increase annually from fiscal 2022 through 2029 to provide reimbursements. A reliable estimate of any such increase cannot be made at this time, as it depends on factors that cannot be estimated beforehand. *For context*, MDE advises that there are currently 616 residential heating oil tank applications awaiting reimbursement, and costs to reimburse those applicants are estimated to total \$6.0 million.

To the extent that the actual amount of oil imported into the State differs from the estimate of 95.0 million barrels annually, the effect on oil transfer fee revenues varies.

The Governor's proposed fiscal 2022 budget assumes that the 8.0-cent fee is maintained, as established by the bill. The Governor's proposed fiscal 2022 budget also assumes that funding continues to be distributed to the Reimbursement Fund.

According to MDE, in the absence of the bill, oil pollution program needs are projected to exceed revenues to the Oil Fund and Reimbursement Fund and may result in a significant reduction in staffing and resources for MDE's oil pollution programs. There are currently 45 employees within the Oil Control Program (the main regulatory program that uses these funds) and 8 additional employees within the Emergency Response Division (the primary division that receives and tracks spill reports involving oil) who are funded by revenues from the fee.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Comptroller's Office; Judiciary (Administrative Office of the Courts); Maryland Department of the Environment; Department of Legislative Services

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