

Department of Legislative Services
Maryland General Assembly
2021 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1078 (Delegate Terrasa)
Health and Government Operations

Attorney General - Climate Change Actions - Authorization

This bill expresses that, for the protection of the health and safety of the State's citizens and environment, it is the General Assembly's intent that businesses, corporations, and other similar entities whose tortious or otherwise unlawful conduct has contributed to climate change be held accountable, as specified. To that end, the bill explicitly authorizes the Attorney General to investigate, commence, and prosecute or defend any civil or criminal suit or action that holds accountable a business, corporation, or other similar entity whose tortious or otherwise unlawful conduct has contributed to climate change through fraud, deception, or any other mechanism, action, inaction, or practice. The bill also authorizes the Attorney General to hire outside counsel (on a contingency fee basis) to assist with an action brought under the bill if the Attorney General determines that it would be in the State's best interest.

Fiscal Summary

State Effect: The Office of the Attorney General (OAG) can likely handle the bill's requirements with existing budgeted resources, as discussed below. Revenues are not directly affected.

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

Small Business Effect: Minimal or none.

Analysis

Current Law: The Attorney General is an elected official who serves a four-year term of office. Pursuant to the State Constitution, the Attorney General has enumerated responsibilities, including investigating, commencing, and prosecuting or defending any civil or criminal suit or actions, as specified, which the General Assembly, by law or joint resolution, or the Governor, directs to be investigated, commenced, and prosecuted or defended. The Attorney General does not, however, have general authority to prosecute crimes in the absence of specific statutory authority or an executive order. The Attorney General also has and must perform any other duties and possess any other powers as the General Assembly prescribes by law. For example, the Attorney General is specifically authorized under § 6-106.1 of the State Government Article to investigate, commence, and prosecute or defend any civil or criminal suit or action that is based on the *federal government's* action or inaction that threatens the public interest and welfare of the residents of the State with respect to protecting the natural resources and environment of the State.

State Expenditures: OAG's Environmental Enforcement Division coordinates the investigation and prosecution of criminal environmental violations and other associated criminal charges throughout the State. Investigative activities may include surveillance, the execution of criminal search and seizure warrants, the issuance of subpoenas for documents or witness information, and the filing of criminal charges. According to OAG, generally, in a criminal environmental case, charges may be filed against both a corporate entity and/or other individuals responsible for the crime. OAG notes that the majority of criminal matters it investigates are from referrals through the Maryland Department of the Environment (MDE) as a result of findings during inspections or from complaints received by MDE.

Because the bill is only authorizing in nature and does not require specific action by OAG, it is assumed that any additional investigations and/or litigation OAG elects to undertake can generally be handled using existing budgeted resources. However, to the extent that the bill results in a significant increase in investigations and litigation, OAG expenditures may increase.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Office of the Attorney General; Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Maryland Department of the Environment; Department of Public Safety and Correctional Services; National Association of Attorneys General; Department of Legislative Services

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