

Department of Legislative Services  
Maryland General Assembly  
2024 Session

FISCAL AND POLICY NOTE  
First Reader

House Bill 842 (Delegate Taveras, *et al.*)  
Appropriations and Environment and  
Transportation

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**Environmental Justice - Investment in Infrastructure Construction Projects**

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This bill requires each State agency, when administering specified federal funds, to the extent practicable and not in conflict with federal law and funding guidelines, to allocate a minimum of (1) 40% of those funds to “infrastructure construction projects” in overburdened and underserved communities in the State and (2) an additional 40% of those funds to infrastructure construction projects in communities of color and communities with a high percentage of low- to moderate-income households in the State. The bill also establishes the Justice40 Committee, staffed by the Maryland Department of the Environment (MDE), and establishes related reporting requirements for affected State agencies and the Justice40 Committee. **The bill takes effect July 1, 2024.**

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**Fiscal Summary**

**State Effect:** State expenditures (all/multiple fund types) increase *significantly* to implement the bill’s administrative requirements; statewide, administrative costs likely exceed \$1.0 million annually beginning in FY 2025. Federal fund expenditures for multiple agencies are likely reallocated to different recipients, used for different purposes, or potentially unspent. Federal fund revenues and expenditures for multiple agencies may decrease in future years if agencies are unable to spend federal funds in a manner required by the bill.

**Local Effect:** Local government finances and operations are affected by the required reallocation of federal funds under the bill. The effect on any particular local government is unknown but likely significant for many local governments.

**Small Business Effect:** Meaningful.

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## Analysis

### Bill Summary:

#### *Definitions*

“Federal funds” means (1) money received by a State agency under the Infrastructure Investment and Jobs Act of 2021 (IIJA) for any program and (2) any other federal money received by a State agency for a “covered program.” “Covered program” means a federal program that makes investments in various specified areas, such as affordable and sustainable housing, climate change, clean water and wastewater infrastructure, and workforce development.

“Infrastructure construction project” means the construction, reconstruction, rehabilitation, modernization, alteration, repair, or improvement of buildings, structures, or property within the following sectors specified in IIJA: transportation, water, energy, broadband, and natural resources.

#### *Administration of Certain Federal Funds*

To achieve the distribution of federal funds required under the bill, a State agency must, in coordination with the Justice40 Committee (established by the bill, described below), (1) identify the four types of communities specified in the bill and (2) conduct community listening sessions in different areas of the State, as specified.

After the community listening sessions are completed, a State agency must work with the Justice40 Committee to identify and provide assistance to infrastructure construction projects in the above communities. The projects must be prioritized based on whether the infrastructure construction project:

- advances environmental justice;
- incorporates specified labor and workforce standards;
- promotes apprenticeship programs;
- promotes the adaptation of infrastructure to climate change; or
- reduces greenhouse gas emissions.

To the extent authorized by federal law, federal funds may be allocated or used to support an infrastructure construction project that will cost more than \$5.0 million *only* if the construction work will be performed in accordance with a project labor agreement that

includes provisions to encourage apprenticeship training and the hiring of workers who reside in overburdened and underserved communities.

By December 1, 2024, and annually thereafter, each State agency administering federal funds (as defined in the bill) must submit a report to the General Assembly on information related to the implementation of the above requirements. The reports must also be made available on agency websites.

### *Justice40 Committee*

The Justice40 Committee is established and staffed by MDE. A committee member may not receive compensation but is entitled to reimbursement for expenses.

The committee must:

- identify infrastructure deficiencies in overburdened communities, underserved communities, communities of color, and communities with a high percentage of low- to moderate-income households in the State;
- recommend infrastructure construction projects under any covered program for federal funding; and
- recommend guidelines for how a State agency can use federal funds to provide assistance for infrastructure projects in the four types of communities addressed by the bill to achieve better climate, labor, and equity outcomes.

A State agency administering federal funds (as defined in the bill) must coordinate with the committee to assist communities in applying for and accessing federal funds for infrastructure construction projects.

By December 31, 2024, and annually thereafter, the committee must submit a report to the General Assembly that:

- lists any recommendations the committee has developed in identifying and providing assistance to infrastructure construction projects in overburdened communities, underserved communities, communities of color, and communities with a high percentage of low- to moderate-income households in the State;
- evaluates the spending of funds for infrastructure construction projects that benefited those communities during the prior fiscal year; and
- evaluates the success of State agencies in meeting the investment required under the bill during the prior fiscal year.

**Current Law:** “Underserved community” means any census tract in which, according to the most recent U.S. Census Bureau Survey (1) at least 25% of the residents qualify as

low-income; (2) at least 50% of the residents identify as nonwhite; or (3) at least 15% of the residents have limited English proficiency. “Overburdened community” means any census tract for which three or more of specified environmental health indicators are above the seventy-fifth percentile statewide.

### *Commission on Environmental Justice and Sustainable Communities*

MDE staffs the Commission on Environmental Justice and Sustainable Communities, which has several statutory duties, including, among other things, (1) advising State government agencies on environmental justice and related community issues; (2) analyzing the impact of current State and local laws, permits, actions, and policies on the issue of environmental justice and sustainable communities; (3) assessing the adequacy of State and local laws to address the issue of environmental justice and sustainable communities; and (4) recommending options to the Governor and the General Assembly for addressing issues, concerns, or problems related to environmental justice, as specified.

### *Infrastructure and Investment Jobs Act of 2021*

Enacted in November 2021, IJA provides \$550 billion in federal funding for new initiatives to repair roads and bridges, improve public transit, and deliver clean drinking water and high-speed Internet, among other things. It also reauthorized federal spending on long-standing infrastructure programs funding highway maintenance, electrical grid upgrades, and water reclamation projects, among others, through 2026.

### **State Fiscal Effect:**

#### *Allocation of Federal Funds and Additional Administrative Requirements*

The bill requires a minimum of 80% of a certain federal funds to be allocated to infrastructure construction projects in specified communities, with additional administrative requirements. Many State agencies administer federal funds affected by the bill. Based on a limited survey of State agencies, the Maryland Department of Transportation (MDOT), the Maryland Department of Emergency Management (MDEM), and MDE are particularly affected but are not the only affected agencies. More specifically:

- MDE must reallocate federal funds to meet the bill’s requirements, conduct community listening sessions across the State, and work with the Justice40 Committee established by the bill to identify and fund infrastructure construction projects. The requirements affect MDE’s Water Infrastructure Financing Administration, Air and Radiation Administration, and related programs. MDE estimates the need for four additional staff for the related administrative requirements.

- MDOT currently receives approximately 41% of total funding for its operating and capital programs from federal funds and nearly all of those funds are included in IIJA. The bill creates inconsistencies in project prioritization under current State law and conflicts with the existing process for transportation project planning and coordination. Additionally, much of MDOT's capital spending involves maintenance and investment in the existing transportation network, the location of which is determined by existing transportation assets. MDOT also indicates that many of its projects will require a project labor agreement under the bill, raising costs per project and limiting the number of projects MDOT can fund with existing funds. MDOT is unable to estimate overall operational and fiscal impacts but advises that they are significant.
- MDEM administers two programs that are affected by the bill and must limit projects applied for under those programs to ensure 80% of potentially awarded funding meets the bill's requirements. Both programs (the Building Resilient Infrastructure and Communities Program and the Flood Mitigation Assistance Program) allow local governments to apply for funds. The programs also fund other uses besides infrastructure projects, so the 80% requirement under the bill will limit other types of funding under the programs. MDEM advises that federal funding may be reduced in future years if the department cannot provide all of the existing funding under the bill's requirements. Some of the funding directly pays for MDEM staff. MDEM did not provide an estimate of administrative expenses associated with the bill, but mentioned equipment costs, rent, and potentially contractual services to support the required community listening sessions.

Accordingly, State expenditures (all/multiple fund types) increase *significantly* to implement the bill's administrative requirements; statewide, administrative costs likely exceed \$1.0 million annually beginning in fiscal 2025. Federal fund expenditures for multiple agencies are likely reallocated to different recipients, used for different purposes, or potentially unspent if they cannot comply with the bill's substantial requirements. Federal fund revenues and expenditures for multiple agencies may decrease in future years if agencies are unable to spend federal funds in a manner required by the bill.

#### *Justice40 Commission – Administrative Costs*

MDE requires a minimum of two staff to handle the administrative requirements associated with the Justice40 Commission, which include ongoing coordination with other agencies that administer affected federal funds. MDE must also complete a detailed annual report that provides recommendations and evaluates agency spending and success in meeting the bill's requirements.

Accordingly, general fund expenditures for MDE increase by at least \$203,218 in fiscal 2025, which accounts for the bill’s July 1, 2024, effective date. This estimate reflects the cost of hiring one administrator and one natural resource planner to provide support and analysis for the commission. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Positions	2.0
Salaries and Fringe Benefits	\$188,166
Operating Expenses	<u>15,052</u>
<b>Minimum FY 2025 MDE Commission Exp.</b>	<b>\$203,218</b>

Future year expenditures – which range from \$185,404 in fiscal 2026 to \$210,991 in fiscal 2029 – reflect full salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses.

These costs are only the minimum administrative costs associated with staffing the commission. MDE also advises it incurs additional administrative costs associated with the required allocation of federal funds, which is discussed separately above.

**Local Fiscal Effect:** Local government finances and operations are affected by the required reallocation of federal funds under the bill, including as direct recipients of federal funds under some programs. The effect on any particular local government is unknown but likely significant for many local governments.

**Small Business Effect:** Some small businesses likely benefit from an increase in funding, while others receive less funding. The effect on any particular small business is unknown but likely meaningful for many.

**Additional Comments:** In January 2021, President Joseph R. Biden Jr. announced [Justice40](#), a federal initiative that mandates that at least 40% of the benefits of certain federal investments must flow to disadvantaged communities.

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### **Additional Information**

**Recent Prior Introductions:** Similar legislation has not been introduced within the last three years.

**Designated Cross File:** None.

**Information Source(s):** Maryland Department of the Environment; Maryland Department of Transportation; Maryland Department of Labor; Department of Information Technology; Department of Commerce; Department of General Services; Department of Housing and Community Development; Department of Human Services; Department of Natural Resources; Board of Public Works; Public Service Commission; Maryland Department of Emergency Management; University System of Maryland; Maryland Environmental Service; Harford and Montgomery counties; City of College Park; Maryland Association of Counties; Maryland Municipal League; The White House; Department of Legislative Services.

**Fiscal Note History:** First Reader - March 5, 2024  
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