

Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
Third Reader

House Bill 1264

(Delegate Allen)

Environment and Transportation

Education, Energy, and the Environment

Reservoir, Dam, or Waterway Obstruction Construction Permits - Conditions for
Exemption

This bill expands the conditions under which a person is exempt from obtaining a permit from the Maryland Department of the Environment (MDE) to construct or repair a reservoir, dam, or waterway obstruction. Specifically, an existing exemption for certain small ponds is modified to remove the requirement that the pond *not be located* within drainage of the Gwynns Falls, Jones Falls, or Herring Run streams situated in or adjacent to Baltimore City. **The bill takes effect July 1, 2024.**

Fiscal Summary

State Effect: Special fund revenues for MDE decrease minimally beginning in FY 2025, as discussed below. Expenditures are not affected.

Local Effect: The bill is not anticipated to materially affect Baltimore County or Baltimore City operations or finances.

Small Business Effect: Minimal.

Analysis

Current Law: A person must obtain a permit from MDE to:

- construct, reconstruct, or repair any reservoir, dam, or waterway obstruction;
- make, construct, or permit to be made or constructed any change or addition to any reservoir, dam, or waterway obstruction;

- make or permit to be made any change in, addition to, or repair of any existing waterway obstruction; or
- change, in any manner, in whole or part the course, current, or cross section of any stream or body of water within the State, except tidal waters.

A person is exempt from the requirement to obtain a permit from MDE if:

- the plans and specifications are approved by the appropriate soil conservation district or MDE's designee;
- the pond *is not located* within drainage of the Gwynns Falls, Jones Falls, or Herring Run streams situated in or adjacent to Baltimore City (this is the requirement removed by the bill);
- the pond meets minimum standards for safety in MDE rules and regulations;
- the contributory drainage area is less than one square mile (640 acres);
- the dam is no taller than 20 feet when measured vertically from the lowest point on the top of the dam to the lowest point on the upstream toe of the dam;
- the pond is a low-hazard structure the failure of which is unlikely to cause loss of life or property damage; and
- the pond is not a wastewater stabilization pond.

The soil conservation district or MDE's designee must notify the department of any pond approved under the above exemption.

Soil Conservation Districts

There are 24 soil conservation districts in 23 counties (Frederick County contains 2 districts) established in statute and continued with boundaries corresponding to county boundaries, except for Frederick County, and include all land and water and incorporated areas. Chapter 621 of 2021 authorized a Baltimore City soil conservation district to be established and continued with boundaries corresponding to the boundaries of Baltimore City, although the district has yet to be established.

State Revenues: MDE receives five or fewer affected permit applications per year, with less than \$4,000 in associated application fees. Those fees would have accrued to the Wetlands and Waterways Program Fund. Accordingly, special fund revenues for MDE decrease minimally beginning in fiscal 2025.

Additional Comments: MDE notes that the bill does not exempt an applicant from the requirement to obtain a nontidal wetlands and waterways authorization from the department if they are required to do so under statute or regulation.

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; Baltimore County; Baltimore City; Department of Legislative Services

Fiscal Note History: First Reader - March 3, 2024
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