

Department of Fiscal Services
Maryland General Assembly

FISCAL NOTE
Revised

Senate Bill 290 (Senators Frosh and Roesser)

Economic and Environmental Affairs

Referred to Environmental Matters

Environment - Water Appropriation or Use Permits

This amended bill alters the State policy concerning water resource appropriation and use. Specifically, the bill establishes that it is State water resource policy to protect adjoining water users and to protect the State's natural resources. The Maryland Department of the Environment (MDE) is required to reject water appropriation or use applications if the appropriation will exceed the "sustained yield" of the aquifer, except for an application for dewatering to allow for specified mining operations.

In addition, the bill provides that if an applicant, other than for agricultural use, intends a groundwater appropriation in unprecedented quantities not common to a locality and the appropriation would cause water table or "potentiometric surface" harm to other users, MDE must require the applicant to: (1) perform an alternative source analysis; and (2) bear the cost of improving adversely impacted neighboring facilities.

Fiscal Summary

State Effect: Expenditures could increase by \$26,700 in FY 1998, which reflects the bill's October 1, 1997 effective date; out-year expenditures could increase depending upon workload. Revenues would not be affected.

Local Effect: Potential indeterminate revenue and expenditure increases.

Small Business Effect: Potential meaningful impact on small businesses.

Fiscal Analysis

State Expenditures: There are currently 1,800 to 2,000 applications for Water Appropriations Permits per year; 10% of these are large projects requiring studies and MDE investigations. In most cases regarding groundwater, the applicant is required to drill a test well to evaluate the impact; MDE personnel evaluate the report submitted. Approximately

4.5 geologist positions are used to evaluate the 180 to 200 major applications submitted per year.

MDE reports that personnel and operating costs would increase by \$86,000 in fiscal 1998 due to the bill's requirements to consider "natural resources" impacts rather than just "water resources" impacts. These funds would be used to hire one additional Geologist to examine mineral resources, and two Biologists to consider studies on natural resource issues such as fish and wildlife or endangered species. The Department of Fiscal Services (DFS) advises that these personnel needs would be impacted by how broadly natural resource studies need to be conducted, the number of applications that would have a major potential impact on natural resources as opposed to water resources, and how much the two types of evaluations would overlap. MDE would need at least one Biologist; the other two positions may need to be added dependent upon workload.

General fund expenditures could increase by an estimated \$26,700 in fiscal 1998, which reflects the bill's October 1, 1997 effective date. This estimate reflects the cost of hiring one Biologist to conduct natural resource assessments. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Salaries and Fringe Benefits	\$23,100
Operating Expenses	<u>3,600</u>
Total FY 1998 State Expenditures	\$26,700

Future year expenditures would reflect (1) full salaries with 3.5% annual increases and 3% employee turnover; and (2) 2% annual increases in ongoing operating expenses. As noted above, additional personnel could be necessary in the out-years depending upon workload incurred. For the three positions that were reported by MDE, total expenditures in the out-years could increase by approximately \$100,000.

Local Revenues: Local governments that incur additional expenditures due to the requirements of this bill could pass these costs along through fees and other charges, generating an indeterminate increase in revenues.

Local Expenditures: To the extent that local governments would need to apply for water appropriation or use permits, local expenditures could increase. The bill requires that in certain cases the applicant perform an alternative source analysis and bear the cost of improving adversely impacted neighboring facilities.

Small Business Effect: The bill requires that applicants for Water Appropriations Permits that would result in water appropriation of unprecedented quantities to perform an alternative

source analysis as well as bear the cost of improving adversely impacted neighboring facilities. Small businesses that are required to obtain permits in these instances would see increased costs. MDE reports that alternative water source analyses may cost from several thousand dollars for a straightforward engineering study to \$100,000 or more for a complex study involving exploratory drilling or reallocation of storage in dams.

These businesses would also be required to make compensation for any neighboring facilities that are adversely impacted. Currently, the reasonable use doctrine is invoked, whereby if a permitted appropriation causes major harm to neighboring facilities, such as a well completely drying up, the permittee may be required to cut back on the appropriation, suspend the permit, or perhaps dig a new well for the individual affected. Under this bill, if someone's well level decreases by a few feet due to the new appropriation, thus causing increased costs to extract the water, this could be potentially eligible for compensation.

In addition, MDE reports that the bill's provisions to protect "natural resources" rather than just "water resources" could cause small businesses to conduct studies on natural resource issues such as fish and wildlife or endangered species. Such a study may cost approximately \$1,000 to \$30,000. On the other hand, small businesses that conduct water or natural resource studies could benefit under the bill's requirements. Any such impact would be dependent upon the number of applicants that would be required to conduct these studies, and how many would hire an outside contractor to conduct them.

The bill's provisions could particularly affect the mining industry. The bill's mining exemption only applies to deep mine operations; surface mines would still be affected. The bill requires that any permit application for an appropriation that would exceed the "sustained yield" of the aquifer be rejected. Should the definition of sustained yield be comprised of the average yield throughout the year, this could cause certain water appropriation applications by the mining industry to be rejected. The industry in many cases pumps out groundwater so as to be able to mine; the water levels that would need to be pumped out at certain times of the year would exceed the yearly average. This limitation could also affect certain surface quarries. There are approximately 400 mines in the State; of these MDE reports that 40 active surface coal mines and approximately 50 surface non-coal mines have applied for water appropriations. A large number of these operations are small businesses.

Information Source(s): Maryland Department of the Environment; St. Mary's, Queen Anne's, Carroll, and Harford counties; Frostburg; Department of Fiscal Services

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