

Department of Legislative Services
Maryland General Assembly

FISCAL NOTE

Revised

House Bill 1025 (Chairman, Environmental Matters Committee)
(Departmental - Environment)

Environmental Matters

Environment - Drinking Water

This departmental bill requires public suppliers of water to notify customers and the Maryland Department of the Environment (MDE) if the water system: (1) fails to comply with the applicable maximum contaminant level, treatment technique requirement, or testing procedure prescribed by a drinking water regulation or when the system fails to perform required monitoring; (2) is subject to variance granted for an inability to meet a maximum contaminant level; (3) is subject to an exemption; (4) fails to comply with requirements set by a variance or exemption; or (5) has concentration levels of an unregulated contaminant for which the State may require notice due to the risk to public health. The bill authorizes MDE to establish notification standards and procedures by regulation.

The bill also prohibits the supplier of water from making false statements to MDE regarding the water system. It also prohibits tampering with public water systems with the intention of harming persons. The bill authorizes MDE to levy administrative, civil, and criminal penalties for violating the provisions of the bill. The bill requires new suppliers of water that commence operations after October 1, 1999 to demonstrate that they have the technical, managerial, and financial capacity to operate the water system in accordance with the drinking water regulations that are in effect or are likely to be in effect when operations commence.

The bill also provides that the administrative penalties will take effect when required by federal regulation promulgated under the federal Safe Drinking Water Act (SDWA).

State Effect: Potential indeterminate increase in general fund revenues due to the bill's penalty provisions until the administrative penalty provision takes effect as required by federal regulation. Potential indeterminate increase in Maryland Clean Water Fund revenues thereafter. No effect on expenditures.

Local Effect: Potential meaningful impact on local government.

Small Business Effect: MDE has determined that this bill has a meaningful impact on small business (attached). Legislative Services concurs. Small businesses could be adversely impacted by the notification requirements and enhanced penalties provided. (This assessment does not reflect any amendments to the bill.)

Fiscal Analysis

Background: MDE is responsible for the primary enforcement (primacy) of the SDWA. In 1996 the SDWA was amended to require states to adopt a mechanism for assessing administrative penalties. In order to retain primacy, MDE will have to adopt the new amendments to the SDWA. If the State fails to adopt these amendments, it could lose primacy as well as a significant amount of federal funds.

Also, the SDWA no longer requires public notification to be done through newspapers. It allows states to determine their own method of notifying the public of potential problems.

State Effect: General fund revenues could increase under the bill's monetary penalty provisions for those cases heard in the District Court, depending upon the number of convictions and fines imposed until the administrative penalty provision takes effect.

Maryland Clean Water Fund revenues could increase by an indeterminate amount when the bill's administrative penalty provision takes effect due to the requirement that all penalties collected be paid into the fund. The administrative penalties will take effect when required by federal regulation promulgated under the SDWA. The federal Environmental Protection Agency (EPA) has advised that the State has until August 1999 to adopt and implement administrative penalties. At this time, it is not known if these penalties will take effect prior to that date.

MDE advises that penalties will be assessed as a last resort, rather than as a method of achieving compliance with the provisions of the bill. As a point of reference, MDE anticipates the revenue from civil penalties in fiscal 1998 to be less than \$5,000. However, the bill gives MDE the authority to assess civil penalties for tampering with water supply systems. These penalties are \$50,000 for actual tampering and \$20,000 for attempted tampering, which are considerably higher than the other administrative, civil, and criminal

penalty provisions of the bill. At this time, though, there is no way to reliably estimate how often these penalties will be levied by MDE.

Local Effect: Revenues could increase under the bill's monetary penalty provisions for those cases heard in the circuit courts, depending upon the number of convictions and fines imposed until the administrative penalty provision takes effect.

The bill repeals current notice requirements and instead authorizes MDE to promulgate regulations establishing notification standards and procedures. Expenditures could increase as a result of the regulations adopted. Any such increase cannot be reliably estimated at this time.

Local governments could also incur revenue losses as a result of MDE using administrative and civil penalties for systems that are violating provisions of the bill. In addition, the bill requires water suppliers to demonstrate that they have the technical, managerial, and financial capacity to operate a proposed water system. This could result in increased start-up costs or start-up delays for local governments that plan on implementing a new water system. On the other hand, to the extent that private water suppliers must demonstrate the technical, managerial, and financial capacity to operate a new water system, it could result in fewer of them having to be taken over by local governments because they are no longer viable.

Information Source(s): Maryland Department of the Environment; Office of Administrative Hearings; Montgomery, Prince George's and Queen Anne's counties; Department of Legislative Services

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