

Department of Legislative Services
Maryland General Assembly

FISCAL NOTE
Revised

Senate Bill 157 (Senators Frosh and Roesser)

Economic and Environmental Affairs

Environment - Water Appropriation or Use Permits

This 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) may not issue a permit for groundwater use if the appropriation will exceed the "sustained yield" of the aquifer, except for an application for dewatering to allow a mining operation.

In addition, the bill provides that if an applicant, other than for agricultural use, intends a groundwater appropriation in unprecedented quantities for purposes 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: None. The bill's requirements could be handled with MDE's existing resources.

Local Effect: Potential indeterminate revenue and expenditure increases.

Small Business Effect: Potential meaningful impact on small businesses.

Fiscal Analysis

Local Effect: 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. Local governments that incur additional expenditures could pass these costs along through fees and other charges, generating an indeterminate increase in revenues.

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, 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. 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.

Information Source(s): Maryland Department of the Environment, Department of Legislative Services

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