

Department of Legislative Services
Maryland General Assembly
1999 Session

FISCAL NOTE

House Bill 80 (Delegates T. Murphy and McHale)

Environmental Matters

Environmental Permits - Violations - Prohibition of Transfer

This bill prohibits the Maryland Department of the Environment (MDE) from granting a renewal, conveyance, or transfer of a permit to a holder who is alleged to have violated the terms of a permit or is in dispute or litigation with MDE for a violation of the permit.

Fiscal Summary

State Effect: Indeterminate loss of revenues as a result of not being able to renew permit applications. Potential indeterminate increase in expenditures.

Local Effect: Potential meaningful impact on local government.

Small Business Effect: Potential meaningful impact on small business.

Fiscal Analysis

State Effect: MDE issues approximately 20,000 permits and renewals each year. Currently, MDE is not able to track permit violations with permit renewals and does not deny permit renewals or transfers due to permit violations. If MDE is forced to deny these applicants a permit renewal it could result in a significant loss of revenue from permit fees. At this time it is difficult to estimate the amount of revenue that could be lost because of the varying permit fees and it is not known which permits may be in violation in a given year. In addition, it is possible that MDE could incur an indeterminate increase in expenditures for legal costs. MDE advises that if it is forced to deny permit renewals for noncompliance, this may cause the affected business to shut down operations. These businesses could file suit against MDE in order to continue operating, thereby forcing MDE to incur increased legal costs. MDE estimates that general fund expenditures could increase by an estimated \$93,760 in fiscal 2000, which accounts for the bill's October 1, 1999 effective date. This estimate reflects the cost of hiring 1 assistant attorney general to handle court cases that could arise

from businesses being shut down as a result of permits being denied and 1 computer specialist to track permit compliance and renewal applications. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses. Future year expenditures reflect (1) full salaries with 3.5% annual increases and 3% employee turnover; and (2) 1% annual increases in ongoing operating expenses.

The Department of Legislative Services (DLS) advises that there is no basis upon which to estimate the number of any additional court cases. DLS believes that until the volume of lawsuits is known, any initial cases filed could be handled with MDE's existing legal resources.

MDE monitors all permits for compliance. While MDE does not have a system in place for keeping track of which permits may be in violation when they are up for renewal, MDE estimates that approximately 5% of permits are in violation when they come up for renewal. Permit compliance and permit renewals are monitored separately. DLS advises that tracking permit compliance with permit renewals could likely be done with existing resources, at least initially, if the department developed a method of integrating the 2 current tracking procedures. MDE advises that this process is being looked into, but at this time it is not known how long it will take to implement. If existing resources prove inadequate, then depending upon the volume of permits in violation, the tracking may be able to be done in a more cost effective manner by a part-time or contractual employee than by a permanent full-time employee.

Local Effect: Local governments would not be able to renew permits if it is determined that they are in violation of the permit or in dispute with MDE regarding the permit. This could result in the affected local government not being able to continue activities necessary to the day-to-day operations of the local government.

Small Business Effect: Small businesses would not be able to renew permits if it is determined that they are in violation of the permit or in dispute with MDE regarding the permit. This could result in small businesses not being able to continue activities necessary to the day-to-day operations of the affected business. The business may have to temporarily close until the violation and permit issue is resolved, which may result in the significant loss of revenue for the business. In the extreme, a business may be forced to permanently close, if unable to restore the permit.

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

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