

Department of Legislative Services
Maryland General Assembly
2000 Session

FISCAL NOTE
Revised

House Bill 327 (Chairman, Environmental Matters Committee)
(Departmental - Agriculture)

Environmental Matters

Department of Agriculture - Nutrient Management

This departmental bill amends the Water Quality Improvement Act (WQIA) of 1998 to: (1) broaden the poultry litter transportation pilot project and matching service to apply to all types of livestock manure; (2) provide State funds for transporting livestock manure (other than poultry manure) not exceeding 87.5% of the costs up to \$20 per ton; (3) change the definition of “animal unit” to 1,000 pounds of live animal weight; (4) remove the limitation on the State’s share of costs for the development of nutrient management plans; (5) repeal the requirement for immediate implementation when cost-share is accepted for plan development; (6) broaden the applicability of provisions relating to the application of commercial fertilizer; (7) allow the Maryland Department of Agriculture (MDA) to adopt regulations for agricultural research, education, and demonstration exemptions from the WQIA; and (8) repeal MDA’s authority to adopt regulations providing for religious exemptions from the WQIA.

Fiscal Summary

State Effect: Potential increase in general fund expenditures in FY 2005 due to the expansion of the poultry litter transportation pilot project. The Governor’s proposed FY 2001 budget includes \$750,000 in general funds for the existing poultry litter transportation pilot project and \$216,000 for the existing nutrient management plan cost-share program. These amounts would cover any costs directly associated with this bill. No effect on revenues.

Local Effect: None.

Small Business Effect: MDA has determined that this bill will have a meaningful impact on small business (attached). Legislative Services concurs with this assessment as discussed

below. (The attached assessment does not reflect amendments to the bill.)

Analysis

Current Law: Chapters 324 and 325 of 1998 (SB 178/HB 599) provided for a variety of measures aimed at improving water quality throughout the State.

Nutrient Management Plans

Agricultural operations with more than \$2,500 in gross income and livestock operations with more than eight animal units (as defined in accordance with federal regulations) using chemical fertilizer must have a phosphorus- and nitrogen-based nutrient management plan by December 31, 2001, and must implement it by December 31, 2002. Agricultural operations using sludge or animal manure must have a nitrogen-based nutrient management plan by December 31, 2001, and must implement it by December 31, 2002. Agricultural operations using sludge or animal manure must have a phosphorus- and nitrogen-based nutrient management plan by July 1, 2004, and must implement it by July 1, 2005. A farmer may have a plan developed by a University of Maryland Cooperative Extension Service (UMCES) consultant for free. State cost-sharing (for eligible costs up to 50% per acre not to exceed \$3 per acre) is available to farmers who have a plan developed by a private nutrient management consultant. Farmers receiving cost-share assistance are required to implement plans upon completion.

Poultry Litter Transportation Pilot Project

The legislation established a Poultry Litter Transportation Pilot Project to transport excess poultry litter from farms in all areas of the State that experience phosphorus over-enrichment. The project is required to encourage voluntary participation to achieve the removal of poultry litter produced by at least 20% of the poultry on the lower Eastern Shore. The State match may not exceed \$10 per ton. The project operates in conjunction with a matching service that was established to promote and facilitate the transfer of poultry litter from those who have excess litter to those who can use more poultry litter.

Restrictions on Application of Commercial Fertilizer

In specified situations, a person may apply commercial fertilizer only if the person applies the commercial fertilizer in a manner that is consistent with the recommendations of the UMCES. This limitation applies only to: (1) an application performed by a person who applies commercial fertilizer for hire or an employee of the owner or manager of the property; and (2) non-agricultural land greater than three acres, or State property.

MDA's Authority to Adopt Exemptions to the WQIA

MDA is authorized to adopt regulations providing for religious exemptions to the WQIA in the event the requirements conflict with the bona fide religious beliefs and practices of persons subject to the law.

Other Provisions

The Nutrient Management Advisory Commission (NMAC) must report to the Governor and the General Assembly by July 1 of each year on the implementation of the requirements of the WQIA.

Background: During the 1997 interim, members of the General Assembly and the Governor's Blue Ribbon Citizens Pfiesteria Action Commission studied the scientific and public policy issues regarding fish kills in lower Eastern Shore rivers in late 1996 and the Summer of 1997. Both the General Assembly and the Governor's commission focused on the role of the toxic dinoflagellate, Pfiesteria. The Governor's commission conducted a series of briefings and public meetings and issued a final report on November 3, 1997.

The report included numerous recommendations regarding the safety of Maryland seafood, agricultural and nonagricultural nutrient management strategies, public health strategies, and future research needs. The commission pursued the causative link between Pfiesteria and agricultural practices in the lower Eastern Shore.

Of particular concern was the role of the chicken industry and the large quantities of chicken litter generated and ultimately applied to local fields as fertilizer. Therefore, throughout the commission's proceedings, a primary concern was the efficacy of the State's existing nutrient management program and the feasibility of recommended changes. In its final report, the commission recommended, among other things, that the State replace its voluntary, nitrogen-based, agricultural nutrient management program with a phosphorus- and nitrogen-based program. The commission further recommended that "the State enroll all farmers in nutrient

management plans by the year 2000. The nutrient management plans should be fully and demonstrably implemented by 2002, contingent upon the State supplying the appropriate level of education, outreach, technical support and financial resources necessary to meet these goals."

Chapters 324 and 325 of 1998 (SB 178/HB 599) addressed the recommendations of the Blue Ribbon Commission, while taking into account the concerns of the agricultural community, particularly mandatory participation in nutrient management plans.

In drafting proposed regulations to implement the WQIA, NMAC identified a number of issues that it believes need to be addressed to clarify the intent of the law, reduce inequities, and accelerate Maryland's water quality goals. In its July 1999 report to the Governor and the General Assembly, NMAC made several recommendations including:

- provide State assistance to non-poultry animal producers to help cover the costs of transporting excess manure throughout the State;
- increase the State's cost-share limit for the development of nutrient management plans;
- change the definition of an "animal unit" to reflect the commonly used definition;
- remove the three-acre minimum for applicability of commercial fertilizer restrictions on non-agricultural land to incorporate application on all non-agricultural land, regardless of size;
- repeal MDA's authority to adopt regulations providing for a religious exemption; and
- authorize MDA to adopt regulations exempting research, education, and demonstration activities.

State Fiscal Effect: The Governor's proposed fiscal 2001 budget includes \$216,000 for the existing nutrient management plan cost-share program and \$750,000 for the existing poultry litter transportation pilot project.

Under this bill, MDA would no longer be constrained by the existing nutrient management cost-share program limitations of 50% of eligible costs up to \$3 per acre. The fiscal 1999 and fiscal 2000 budgets included \$750,000 for the cost-share program. However, because the deadlines do not phase in until fiscal 2002 through fiscal 2004, and because regulations to implement this program are not yet finalized, MDA advises that only two farmers participated in the program in fiscal 1999. As a result, those funds were reallocated for other purposes. MDA reports that it does not anticipate expending the \$750,000 in the fiscal 2000 appropriation and has made plans to transfer and reallocate those funds as well. Accordingly, the proposed fiscal 2001 budget should be sufficient to handle the bill's changes for fiscal 2001. To the extent that the demand for the program increases as the deadlines for

developing nutrient management plans approach, total costs of the program may increase in future years. However, any increase in costs for the program would not be a direct result of this bill.

The bill also expands the existing poultry litter transportation pilot project and matching service to other types of livestock manure and directs the State to provide funds for transporting livestock manure not exceeding 87.5% of the costs up to \$20 per ton. The fiscal 1999 and fiscal 2000 budgets included \$750,000 for the existing program. However, MDA advises that while interest in receiving excess poultry litter has been strong, the interest in providing it has been limited. As of December 31, 1999, the project had paid out \$76,000 in grants and had applications for \$157,000 pending. Because interest was so low, MDA reallocated the balance of the fiscal 1999 appropriation for other purposes. MDA also does not expect to spend all of the fiscal 2000 appropriation and has made plans to reallocate those funds as well. Accordingly, the fiscal 2001 allowance of \$750,000 should be sufficient to cover the costs of the expanded program as provided by the bill. In future years, the demand for the program could increase as deadlines for implementing nutrient management plans approach. To the extent that this happens, costs for the program, including costs to expand the existing program to non-poultry manure, could increase. However, a measurable increase in the demand is not anticipated until at least 2005, the date by which all plans are required to be implemented.

Small Business Effect: By broadening the applicability of provisions relating to the application of commercial fertilizer, the bill will also affect lawn-care specialists, many of which are presumed to be small businesses.

Additional Information

Prior Introductions: None.

Cross File: None.

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

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