SB 549

Department of Legislative Services

Maryland General Assembly
2002 Session

FISCAL NOTE

Senate Bill 549 (Senator Van Hollen, *et al*.)
Education, Health, and Environmental Affairs Environmental Matters

Maryland Water Conservation Act

This bill requires the Maryland Department of the Environment (MDE) to issue guidelines by October 1, 2003 to specified public water systems and sewage treatment plants regarding the use of best management practices (BMPs). Public water systems and sewage treatment plants will be required to provide specified information relating to the use of such practices to MDE when applying for specified permits or financial assistance.

Fiscal Summary

State Effect: The bill's requirements could be handled with existing budgeted resources.

Local Effect: Local jurisdictions that operate large public water systems and sewage treatment plants may incur a minimal increase in expenditures to provide information to MDE. To the extent a local jurisdiction is required to implement BMPs as a result of the bill, local expenditures will increase. Potential decrease in local revenues from water service due to any decrease in the volume of water being supplied. **This bill may impose a mandate on a unit of local government.**

Small Business Effect: Minimal.

Analysis

Bill Summary: The bill states that it is the policy of the State to: (1) encourage investment in cost-effective measures that improve the efficiency with which water and wastewater are used, treated, stored, and transmitted in the State; (2) reduce costs associated with treating, storing, and transmitting water and wastewater; and (3) protect the State's natural resources.

The bill applies to public water systems serving at least 10,000 individuals and sewage treatment plants discharging at least 1 million gallons per day that: (1) apply for a new, renewed, or amended water appropriation; (2) do not have an appropriation permit; (3) apply for a new or amended National Pollutant Discharge Elimination System (NPDES) permit; or (4) apply for State financial assistance.

When applying for a new or expanded water appropriation or wastewater discharge permit, or State financial assistance, public water systems and sewage treatment plants must include a description of BMPs currently in use, or to be implemented, for improving water conservation and the efficiency with which water or wastewater is used, treated, stored, and transmitted. The application must include a schedule for the implementation of BMPs, including several specified practices such as audits and rate structures designed to promote conservation.

In reviewing requests for new, renewed, or expanded water appropriation or wastewater discharge permits by public water systems or sewage treatment plants, MDE must consider existing local initiatives and voluntary efforts and BMPs set forth for implementation within a permit application. MDE must also consider those factors in reviewing and prioritizing requests for State financial assistance through the Maryland Water Quality Revolving Loan Fund and other sources.

The guidelines developed by MDE must include: (1) costs and cost-savings associated with implementing examples of specific BMPs; (2) water conservation associated with implementing specific BMPs; and (3) priority eligibility for funding through State financial resources for drinking water and wastewater treatment improvements when BMPs are implemented.

Current Law: MDE currently regulates public water systems through implementation of the federal Safe Drinking Water Act and through permitting of water appropriations. The main goal of MDE's Water Supply Program is to ensure safe and adequate water supplies for citizens. MDE also regulates wastewater treatment plants through its Wastewater Permits Program. The main goal of that program is to protect and improve the quality of the State's surface and ground waters by regulating the discharge of pollutants.

Background: Maryland has experienced two severe drought situations in the memorable past, one in the mid-1960s and more recently in the late 1990s. The drought of 1999 was one of the worst droughts on record in the State. Many public water systems had difficulty meeting the high demands combined with diminishing sources. Following that drought emergency, Governor Glendening issued an executive order establishing two committees to advise him on issues related to water conservation and drought

management. The two committees began meeting in April 2000 and submitted reports to the Governor in November 2000.

The Maryland Statewide Water Conservation Advisory Committee was tasked with establishing statewide indicators for evaluating drought conditions, examining current water conservation efforts and the need for regional enhancements, assessing well failures and programs for ground water conservation, developing comprehensive public education and outreach programs, recommending short and long term planning solutions for responding to future drought conditions, and suggesting mechanisms to address its findings. In its final report, the committee recommended the development of a drought monitoring and response plan as well as ongoing water conservation measures. Among other things, the committee recommended that water suppliers be proactive in developing and implementing water conservation programs by examining and possibly restructuring rate systems to encourage water conservation and creating incentive programs to promote water efficiency.

The Maryland Technical Advisory Committee on Water Supply Infrastructure was charged with studying the impact of infrastructure deficiencies on water conservation and recommending improvements in infrastructure to minimize water loss. In its final report, the Maryland Technical Advisory Committee made several recommendations, including:

- water systems that serve a population of 10,000 or greater should determine the adequacy of the water system supply and storage to provide acceptable service during drought periods;
- these systems should determine their per capita usage and conduct a water audit on an annual basis. If the residential per capita usage is greater than 100 gallons per capita per day, the water system should conduct annual water conservation public education. If the water system's unaccounted water is greater than 10% the water system should prepare a plan for identifying and reducing water losses;
- water systems that serve a population of 10,000 or greater that are approaching their capacity should prepare a capital improvement plan that ensures that sufficient capacity will be available for a planning period of ten years;
- MDE should further review the per capita usage of water systems, including those that serve a population of less than 10,000, at the time of appropriation permit application or renewal; and
- current water rate structures should be evaluated to provide the necessary capital where feasible, and additional sources of funding should be pursued.

In response to those recommendations, MDE has taken several actions:

- for water systems serving a population of more than 10,000, MDE has requested that annual water audits be performed and reported to MDE. If water losses exceed 10% of water delivered by the system, the systems will be required to submit a water loss reduction plan. MDE has also begun to implement this measure as a permit requirement on all new, revised, or renewed water appropriation permits for those systems serving more than 10,000 people;
- MDE is also planning to review the per capita usage of all community water systems, both large and small, at the time of permit application or renewal. Those systems exceeding a per capita use of 100 gallons per day will be required as a permit condition to conduct a water conservation public education campaign;
- MDE has developed guidelines for implementing those requirements into its review process for applications for State financial assistance for water-related projects. The guidelines will require water conservation efforts as a condition of receiving funding, and will provide additional credit in project priority ranking for those systems that have conservation plans; and
- MDE has initiated a review of water audits for all State facilities, pursuant to an executive order.

State Expenditures: MDE advises that general fund expenditures would increase by $37,000 in fiscal 2003 to hire one public health engineer to develop regulations, coordinate and hold public hearings, research and develop guidelines for plant operators, and review water conservation information that is submitted by applicants for permits and financial assistance. MDE advises that approximately 30 community water systems and 33 wastewater treatment plants will be required to submit information to MDE regarding BMPs as a result of the bill.

Legislative Services advises, however, that MDE has already begun to implement many activities related to the bill's requirements. For example, for water systems serving a population of over 10,000, MDE is already requiring water audits, and for specified community water systems, MDE plans to consider water usage and water loss reduction plans when reviewing applications for permits, permit renewals, and financial assistance. These activities will likely occur regardless of the bill. Legislative Services agrees that the bill does impose additional requirements on MDE. However, at this time, it is unclear why those additional duties could not be incorporated into the work that MDE is already doing or planning to do. Accordingly, Legislative Services advises that MDE should be able to meet the bill's requirements using existing budgeted resources. Should existing resources prove inadequate, MDE may request additional resources through the annual budget process.

Local Fiscal Effect: Local governments that operate large community water systems or sewage treatment plants will be required to provide information relating to their water

conservation practices when they apply for specified permits and financial assistance. The cost of providing that information is expected to be minimal. Legislative Services advises that local jurisdictions operating large public water systems are already required to report some information to MDE relating to water use.

Although the bill does not specifically require local jurisdictions to implement water conservation practices, depending on the guidelines MDE develops, it is possible that a local jurisdiction might have to implement specified BMPs as a condition of a permit or permit renewal or to receive priority ranking from MDE for financial assistance. To the extent local jurisdictions are required to implement BMPs as a result of the bill, local expenditures will increase. Expenditures to implement water conservation practices could be offset in the long run through greater system efficiency. In addition, Legislative Services advises that many local jurisdictions are already incorporating water conservation practices into their systems or have plans to do so.

To the extent that the bill results in a reduction in the volume of water being supplied, local revenues for water service will decrease.

Additional Information

Prior Introductions: SB 744 of 2001 would have required specified applicants for permits and financial assistance to submit water conservation plans to MDE for approval. The bill passed the Senate with amendments. The House Environmental Matters Committee held a hearing on the bill, but no further action was taken.

Cross File: HB 693 (Delegate Frush, *et al.*) - Environmental Matters.

Information Source(s): Maryland Department of the Environment; Washington Suburban Sanitary Commission; Charles, Montgomery, and Prince George's counties; Chesapeake Bay Foundation; Department of Legislative Services

Fiscal Note History: First Reader - February 21, 2002
lsc/cer

Analysis by: Lesley Frymier

Direct Inquiries to:
John Rixey, Coordinating Analyst
(410) 946-5510
(301) 970-5510